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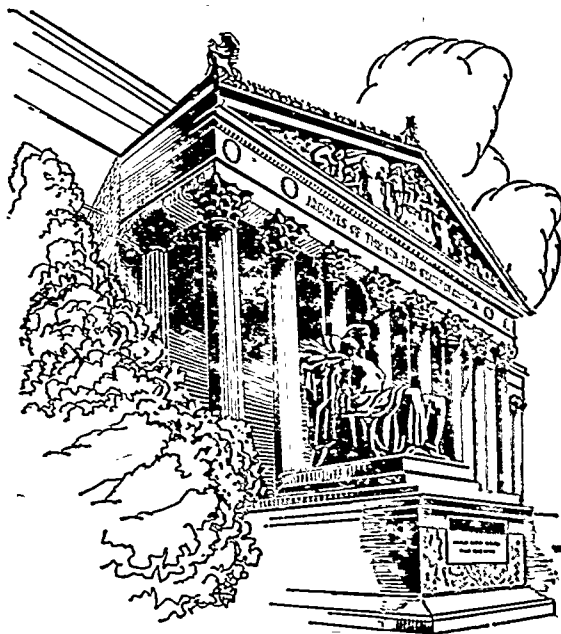
Thursday, October 26, 1967 • Washington, D.C.

Pages 14813-14879

Agencies in this issue—

Agency for International Development
Air Force Department
Atomic Energy Commission
Civil Aeronautics Board
Consumer and Marketing Service
Defense Department
Federal Aviation Administration
Federal Communications Commission
Federal Home Loan Bank Board
Federal Maritime Commission
Federal Reserve System
Federal Trade Commission
Fish and Wildlife Service
Food and Drug Administration
General Services Administration
Housing and Urban Development
Department
Internal Revenue Service
Interstate Commerce Commission
Land Management Bureau
Post Office Department
Securities and Exchange Commission
Transportation Department

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Latest Edition

Guide to Record Retention Requirements

[Revised as of January 1, 1967]

This useful reference tool is designed to keep businessmen and the general public informed concerning published requirements in laws and regulations relating to record retention. It contains over 900 digests detailing the retention periods for the many types of records required to be kept under Federal laws and rules.

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Price: 40 cents

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(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

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Rules and Regulations

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER A—GENERAL

[No. 20,884]

PART 511—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Miscellaneous Amendments

SEPTEMBER 28, 1967.

Resolved that, pursuant to and in accordance with sections 201 through 209 of Title 18, United States Code, Executive Order 11222 of May 8, 1965 (3 F.R. 6469), and Title 5, Chapter I, Part 735 of the Code of Federal Regulations, Part 511 of the general regulations of the Federal Home Loan Bank Board (12 CFR Part 511) is hereby amended by amendments the substance of which are as follows:

1. Paragraph (b) of § 511.735-11 is hereby amended by adding, immediately after subparagraph (6) a new subparagraph (7) to read as follows:

§ 511.735-11 Gifts, entertainment, favors, and loans.

(b) Exceptions. * * *

(7) The receipt of bona fide reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as is compatible with this part for which no Government payment or reimbursement is or will be made. This paragraph does not allow an employee to be reimbursed, or payment to be made on his behalf for excessive personal living expenses, gifts, entertainment or other personal benefits, nor does it allow an employee to be reimbursed by any person for travel on official business under agency orders when reimbursement is proscribed by decision B-128527 of the Comptroller General dated March 7, 1967.

2. Section 511.735-12 is hereby revised to read as follows:

§ 511.735-12 Soliciting contributions; accepting and giving gifts.

An employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior or accept a gift from an employee receiving less pay than himself (5 U.S.C. 7351). However, this paragraph does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as a marriage, illness or retirement.

3. Section 511.735-13 is hereby amended by adding a statutory reference; as so amended, that section reads as follows:

§ 511.735-13 Accepting gifts from foreign governments.

An employee shall not accept a gift, present, decoration, or other thing from a foreign government unless authorized by Congress as provided by the Constitution and in 5 U.S.C. 7342.

4. Section 511.735-14 is hereby amended by revoking subparagraph of paragraph (d) and by revising the section heading to read as follows:

§ 511.735-14 Outside employment and other activities.

(d) This section does not preclude an employee from:

(1) [Revoked]

5. Section 511.735-35 is hereby amended by adding, immediately after paragraph (c), a new paragraph, paragraph (d), to read as follows:

§ 511.735-35 Filing and review of statements of employment and financial interests.

(d) To insure the confidentiality of the information contained in Forms 511A and 511B and attachments, such forms and attachments shall only be accessible to the Chairman, the Member of the Board referred to in paragraph (b) of this section and the counselors and deputy counselors referred to in § 511.735-4. They shall be responsible for maintaining the statements in confidence and shall not allow access to or allow information to be disclosed from such forms and attachments to such forms except to carry out the purpose of this part and for good cause shown.

6. Section 511.735-36 is hereby revised to read as follows:

§ 511.735-36 Employees required to submit statements.

Except as provided in § 511.735-37, statements of employment and financial interests on Form 511A shall be filed by each employee who is a Director, Deputy Director, Associate Director or Assistant Director of a Division or an Office of the Agency (regardless of his specific title), an Adviser or Assistant to the Board, an Assistant to the Chairman or Member of the Board, a Hearing Officer, the Office Services Manager, a Chief Examiner, an Assistant Chief Examiner and an Examiner serving as Examiner-in-charge of examinations of member institutions or institutions applying for membership. However, employees described in this paragraph may be excluded from the reporting requirement when the Board determines that the duties of such person are at such a level of responsibility that the submission of a statement of employment and financial

interests by such person is not necessary because of the degree of supervision and review over such person and the remote and inconsequential effect on the integrity of the Agency and the Government.

7. Part 511 is hereby amended by adding, immediately after § 511.735-36, a new section, § 511.735-36a, to read as follows:

§ 511.735-36a Employee's complaint on filing requirement.

The Board's grievance procedure is available to consider a complaint by an employee that his position has been improperly included under the regulations as one requiring the submission of a statement of employment and financial interests.

8. Section 511.735-39 is hereby revised to read as follows:

§ 511.735-39 Supplementary statements.

Changes in, or additions to, the information contained in an employee's Form 511A shall be reported in a supplementary statement as of June 30 each year. If no changes or additions occur, a negative report is required. Notwithstanding the filing of the annual report required by this section, each employee shall at all times avoid acquiring a financial interest that could result, or take an action that could result, in a violation of the conflict-of-interest provisions of section 208 of Title 18 U.S.C. or Subpart B of this part.

9. Paragraph (a) of § 511.735-44 is hereby amended by revising subparagraph (2) of said paragraph (a) to read as follows:

§ 511.735-44 Specific provisions of Agency regulations for special Government employees.

(a) * * *

(2) The financial interest of the special Government employee which are determined to be relevant in the light of the duties he is to perform.

10. Paragraphs (d), (g), (h), (j), and (p) of § 511.735-55 are hereby revised to correct statutory reference made obsolete by codification of Title 5 United States Code and a new paragraph, paragraph (q), is hereby added to said section. As amended, paragraphs (d), (g), (h), (j), (p), and (q) of § 511.735-55 read as follows:

§ 511.735-55 Miscellaneous statutory provisions.

(d) The prohibitions against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918) (\$1,000 fine and/or 1 year and 1 day in prison).

(g) The provision relating to the habitual use of intoxicants to excess (5 U.S.C. 7352) (ineligibility for many positions).

(h) The prohibition against the misuse of a Government vehicle (suspension from duty or removal from employment). (31 U.S.C. 638a(c)).

(j) The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917) (\$1,000 fine and/or 1 year in prison).

(p) The prohibition against political activities in subchapter III of chapter 73 of Title 5, United States Code and 18 U.S.C. 602, 603, 607, and 608 (fines of \$5,000 and/or 5 years in prison).

(q) The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

These amendments were approved by the Civil Service Commission on October 18, 1967, and are effective upon publication in the FEDERAL REGISTER.

By the Federal Home Loan Bank Board.

[SEAL] HARRY W. CAULSEN,
Secretary.

[F.R. Doc. 67-12646; Filed, Oct. 25, 1967;
8:47 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. C-1256]

PART 13—PROHIBITED TRADE PRACTICES

Griff's of America, Inc.

Subpart—Discriminating in price under section 2, Clayton Act—Payment or acceptance of commission, brokerage or other compensation under 2(c): § 13.800 *Buyers' agents*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 2, 49 Stat. 1528; 15 U.S.C. 13) [Cease and desist order, Griff's of America, Inc., Dallas, Tex., Docket C-1256, Sept. 25, 1967]

Consent order requiring a Dallas, Tex., corporation which operates and franchises hamburger stands to cease engaging in illegal brokerage activities in the sale of food products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent Griff's of America, Inc., a corporation, and its officers, agents, representatives, and employees, directly or through any corporate or other device in connection with the purchase of food commodities and other products, in commerce, as "commerce" is defined in the amended Clayton Act, do forthwith cease and desist

from: Receiving or accepting, directly or indirectly, from any seller, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any purchase of food commodities or any other product for respondent's own account or where respondent is the agent, representative, or other intermediary acting for, or in behalf of, or is subject to, the direct or indirect control of, any buyer.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

Issued: September 25, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 67-12623; Filed, Oct. 25, 1967;
8:45 a.m.]

[Docket No. C-1257]

PART 13—PROHIBITED TRADE PRACTICES

Griff's of America, Inc., et al.

Subpart—Combining or conspiring: § 13.425 *To enforce or bring about resale price maintenance*. Subpart—Dealing on exclusive and tying basis: § 13.670 *Dealing on exclusive and tying basis*; § 13.670-20 Federal Trade Commission Act. Subpart—Discriminating in price under section 5, Federal Trade Commission Act: § 13.892 *Knowingly inducing or receiving discriminating payments*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Griff's of America, Inc., et al., Dallas, Tex., Docket C-1257, Sept. 25, 1967]

In the Matter of Griff's of America, Inc., a Corporation; Brice Wholesalers, Inc., a Corporation; and Robert L. Fellers, an Individual

Consent order requiring a Dallas Tex., corporation which operates and franchises hamburger stands in several States and an Iola, Kans., food wholesaler, to cease inducing the payment of illegal brokerage fees, entering into total requirement contracts, and fixing resale prices of any commodity.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Griff's of America, Inc., and Brice Wholesalers, Inc., each a corporation, and their officers, agents, representatives, and employees, and respondent Robert L. Fellers, an individual, and his agents, representatives, and employees, directly or through any corporate or other device, in connection with the purchase or sale of any commodity in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith

cease and desist from entering into, continuing, cooperating in, or carrying out any agreement, understanding, combination, conspiracy, or planned common course of action, between or among any of said respondents or between any of said respondents and others not parties hereto to do or perform any of the following acts or things:

(1) Induce any seller of any commodity to pay or allow a brokerage fee, commission or discount, to an agent or representative of any buyer;

(2) Negotiate with any seller for the purchase of any commodity on condition that the buyer's entire requirements be supplied by such seller, provided such seller pay a brokerage fee to an intermediary specified by respondents and/or that said seller recognize an intermediary specified by said respondents to act as a wholesaler when said wholesaler is, in fact, an agent of or subject to the control of, said respondents or any of them.

(3) Fixing or establishing prices for resale of any commodity by any means to any retailer.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: September 25, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 67-12624; Filed, Oct. 25, 1967;
8:45 a.m.]

[Docket No. C-1259]

PART 13—PROHIBITED TRADE PRACTICES

Horikoshi New York, Inc., and Tetsukichi Fujii

Subpart—Importing, selling, or transporting flammable wear: § 13.1060 *Importing, selling, or transporting flammable wear*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 67 Stat. 111, as amended; 15 U.S.C. 45, 1101) [Cease and desist order, Horikoshi New York, Inc., et al., New York, N.Y., Docket C-1259, Oct. 6, 1967]

In the Matter of Horikoshi New York, Inc., a Corporation, and Tetsukichi Fujii, Individually and as an Officer of Said Corporation

Consent order requiring a New York City distributor of fabrics to cease importing, selling, and transporting dangerously flammable fabrics.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Horikoshi New York, Inc., a corporation, and its officers, and Tetsukichi Fujii, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or

through any corporate or other device, do forthwith cease and desist from:

(a) Importing into the United States; or

(b) Selling, offering for sale, introducing, delivering for introduction, transporting, or causing to be transported, in commerce, as "commerce" is defined in the Flammable Fabrics Act; or

(c) Transporting or causing to be transported, for the purpose of sale or delivery after sale in commerce,

any fabric which, under the provisions of section 4 of the said Flammable Fabrics Act, as amended, is so highly flammable as to be dangerous when worn by individuals.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: October 6, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 67-12625; Filed, Oct. 25, 1967; 8:45 a.m.]

[Docket No. C-1255]

PART 13—PROHIBITED TRADE PRACTICES

Rigley Distributing Co., Inc., et al.

Subpart—Discriminating in price under section 2, Clayton Act—Payment or acceptance of commission, brokerage or other compensation under 2(c): § 13.800 *Buyers' agents*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 2, 49 Stat. 1526; 15 U.S.C. 13) [Cease and desist order, Rigley Distributing Co., Inc., et al., Lawrence, Kans., Docket C-1255, Sept. 25, 1967]

In the Matter of Rigley Distributing Co., Inc., a Corporation; and James Shirley, Individually and as an Officer of Rigley Distributing Co., Inc., and Robert L. Fellers, Individually and as an Officer of Rigley Distributing Co., Inc.

Consent order requiring a Lawrence, Kans., food broker to cease accepting illegal brokerage in connection with the sale of food products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Rigley Distributing Co., Inc., a corporation, and its officers, agents, representatives, and employees; James Shirley, individually and as an officer of Rigley Distributing Co., Inc.; and Robert L. Fellers, individually and as an officer of Rigley Distributing Co., Inc.; and their agents, representatives, and employees, directly or through any corporate or other device, in connection with the purchase of food commodities and other products, in commerce, as "commerce" is defined in the amended

Clayton Act, do forthwith cease and desist from: Receiving or accepting directly or indirectly, from any seller, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any purchase of any of such products for respondents' own account or where respondents are the agents, representatives, or other intermediaries acting for, or in behalf of, or are subject to, the direct or indirect control of, any buyer.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: September 25, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 67-12627; Filed, Oct. 25, 1967; 8:46 a.m.]

[Docket No. C-1258]

PART 13—PROHIBITED TRADE PRACTICES

I. Spiewak & Sons, Inc., et al.

Subpart—Misbranding or mislabeling: § 13.1185 *Composition*: 13.1185-90 Wool Products Labeling Act; § 13.1212 *Formal regulatory and statutory requirements*; 13.1212-90 Wool Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 *Composition*: 13.1845-80 Wool Products labeling Act; § 13.1852 *Formal regulatory and statutory requirements*: 13.1852-80 Wool Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; secs. 2-5, 54 Stat. 1128-1130; 15 U.S.C. 45, 68) [Cease and desist order, I. Spiewak & Sons, Inc., et al., New York, N.Y., Docket C-1258, September 29, 1967]

In the Matter of I. Spiewak & Sons, Inc., a Corporation, and Gerald Spiewak, Robert I. Spiewak, and Martin H. Spiewak, Individually and as Officers of Said Corporation

Consent order requiring a New York City clothing manufacturer to cease misbranding its wool products and failing to affix proper labels thereto.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents I. Spiewak & Sons, Inc., a corporation, and its officers, and Gerald Spiewak, Robert I. Spiewak and Martin H. Spiewak, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the manufacture for introduction into commerce, the introduction into commerce, or the offering for sale, sale, transportation, distribution, delivery for shipment or shipment, in

commerce, of wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding wool products by:

1. Falsely and deceptively stamping, tagging, labeling, or otherwise identifying such products as to the character or amount of the constituent fibers contained therein.

2. Failing to securely affix to, or place on, each such product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner each element of information required to be disclosed by section 4(a) (2) of the Wool Products Labeling Act of 1939.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: September 29, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 67-12626; Filed, Oct. 25, 1967; 8:46 a.m.]

Title 24—HOUSING AND HOUSING CREDIT

Subtitle A—Office of the Secretary, Department of Housing and Urban Development

PART 1—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Discrimination Prohibited

In § 1.4(b), the text of subparagraph (2) is designated (1), and a new subdivision (11) is added to read as follows:

§ 1.4 Discrimination prohibited.

- * * *
- (b) * * *
- (2) * * *

(11) A recipient, in operating low-rent housing with Federal financial assistance under the United States Housing Act of 1937, as amended (42 U.S.C. 1401 et seq.), shall assign eligible applicants to dwelling units in accordance with a plan, duly adopted by the recipient and approved by the responsible Department official, providing for assignment on a community-wide basis in sequence based upon the date and time the application is received, the size or type of unit suitable, and factors affecting preference or priority established by the recipient's regulations, which are not inconsistent with the objectives of Title VI of the Civil Rights Act of 1964 and this Part 1. The plan may allow an applicant to refuse a tendered vacancy for good cause

without losing his standing on the list, but shall limit the number of refusals without cause as prescribed by the responsible Department official. The responsible Department official is authorized to prescribe and promulgate plans, exceptions, procedures, and requirements for the assignment and reassignment of eligible applicants and tenants consistent with the purpose of this subdivision (ii), this Part 1, and Title VI of the Civil Rights Act of 1964, in order to effectuate and insure compliance with the requirements imposed thereunder.

(Sec. 602, Civil Rights Act of 1964, P.L. 88-352, 78 Stat. 252, 42 U.S.C. 2000d-1; sec. 7(d), P.L. 89-174, 79 Stat. 670, 42 U.S.C. 3535(d); U.S. Housing Act of 1937, as amended, 42 U.S.C. 1401 et seq.)

ROBERT C. WEAVER,
Secretary of Housing and
Urban Development.

Approved: October 19, 1967.

LYNDON B. JOHNSON.

[F.R. Doc. 67-12664; Filed, Oct. 25, 1967;
8:50 a.m.]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER B—PERSONNEL; MILITARY AND CIVILIAN

PART 102—UNIFORM TRAINING CATEGORIES AND PAY GROUPS WITHIN THE RESERVE FORCES

The following revision to Part 102 has been approved:

- Sec.
102.1 Purpose.
102.2 Applicability.
102.3 Training categories.
102.4 Uniform pay groups.
102.5 Tours of active-duty-for-training in excess of fifteen (15) consecutive days.
102.6 Basic requirements and policy.

AUTHORITY: The provisions of this Part 102 issued under sec. 2001, Title 10, United States Code; sec. 502, Title 32, United States Code.

§ 102.1 Purpose.

This part (a) establishes policy and designates uniform training categories for Ready Reserve and Standby Reserve of the armed forces under provisions of section 2001 of title 10, United States Code; (b) establishes uniform Ready Reserve pay groups, for budget and pay purposes; and (c) provides uniform planning and budgeting policies and procedures relating to and authorizing tours of active-duty-for-training with pay in excess of fifteen (15) consecutive days for selected personnel of the reserve components of the armed forces.

§ 102.2 Applicability.

The provisions of this part apply to the Departments of the Army, Navy, and Air Force in the administration of the reserve components.

§ 102.3 Training categories.

(a) Each unit and member of the Ready Reserve not on active duty shall

be placed in one of the following training categories, as determined by the Secretary of the Military Department concerned:

Training category	Annual number of periods of inactive-duty training	Annual active-duty-for-training
A-----	48	15 days.
B-----	24	Do.
C-----	12	Do.
D-----	0	Do.
E-----	0	30 days.
F-----	0	4 months minimum initial active-duty-for-training.
G-----	12	0.
H-----	Correspondence courses and extension courses.	
I-----	No training.	
J-----	Officer training programs.	

(b) Units and members of the Army National Guard of the United States and the Air National Guard of the United States (except those who are members of the inactive National Guard) shall be placed in a training category consistent with the training requirements set forth in title 32, United States Code.

(c) Additional training within any category may be prescribed by the Secretaries of the Military Departments as necessary and consistent with law.

(d) Only the following members of the Standby Reserve may be permitted to participate voluntarily in reserve training and earn promotion and retirement points.

(1) Personnel who have not fulfilled their statutory military service obligations.

(2) Personnel temporarily assigned to the active Standby Reserve for hardship or other cogent reason who intend to return to the Ready Reserve.

(3) Personnel who qualify for retention in an active reserve status under the provisions of section 1006, title 10, United States Code.

(4) Personnel who were transferred from the Ready to the Standby Reserve active status list as key personnel on or before July 31, 1965.

Standby Reserve members who are authorized by subparagraphs (1), (2), (3), and (4) of this paragraph, and who volunteer to participate in reserve training, shall be placed in appropriate training categories. These members will not be entitled to pay and allowances, including travel and transportation allowances for such training.

§ 102.4 Uniform pay groups.

(a) The following uniform pay groups are established within the Ready Reserve for budget and pay purposes:

Pay group	Annual number of paid periods of inactive-duty training	Annual paid active-duty-for-training
A-----	48	15 days.
B-----	24	Do.
C-----	12	Do.
D-----	0	Do.
E-----	0	30 days.
F-----	0	4 months minimum initial active-duty-for-training.

(b) The Secretaries of the Military Departments shall determine which of the above pay groups are to be established for the reserve components of their departments. (Designation of pay groups does not preclude additional paid training where otherwise authorized.)

(c) In order to conform to the accounting classifications prescribed in DoD Instruction 7220.11, "Budget and Accounting Classifications for Reserve Component Personnel Appropriations",¹ paid active-duty-for-training for school and special tours shall not be identified as separate pay groups, but may be in addition to the training provided by the established pay groups.

(d) The Secretaries of the Military Departments may authorize multiple training periods within appropriate pay groups; that is, more than one (1) paid inactive-duty training period to be conducted within one (1) calendar day, provided each is of at least four (4) hours' duration. However, no more than two (2) such paid training periods in one (1) calendar days may be authorized.

§ 102.5 Tours of active-duty-for-training in excess of fifteen (15) consecutive days.

(a) Training funds, appropriated for tours of active-duty-for-training in excess of fifteen (15) consecutive days with pay for selected reserve component personnel (as distinguished from other reserve components training funds), shall be used to provide sufficient annual active-duty-for-training for such personnel to acquire or maintain essential proficiency in their military occupational specialties, as follows:

(1) Tours of active-duty-for-training as students at regular, associate, and refresher courses of service schools, area schools, unit schools, officer candidate schools and other installations which provide training applicable to the individual's assignment.

(2) Other justified tours of active-duty-for-training, not to exceed ninety (90) days (including travel time) in any 1 fiscal year for the following purposes:

- (i) Staff and faculty for schools.
- (ii) Special field, fleet, and joint exercises.

(iii) Indoctrination training.

(iv) Special tours of active-duty-for-training in connection with projects relating to the reserve component programs, including support for operation of training camps and training ships, when appropriate personnel in active military service are not available for the duties to be performed and if such duties are essential to the organization and training programs of the reserve component and are beyond the services which the active military forces normally provide for the support of the reserve component programs.

(3) Tours of active-duty-for-training of thirty (30) days, authorized by section 270(a) of title 10, United States Code.

¹ Filed as part of original document. Copies available at the Publications Counter, OASD(A); 3 B 200 Pentagon, or OX 53167.

(4) Tours of active-duty-for-training of not more than forty-five (45) days for failure to perform reserve training duty satisfactorily, as authorized in section 270 (b) and (c) of title 10, United States Code.

(5) Initial tours of active-duty-for-training for basic training for individuals entering directly into the Reserve Forces under provisions of section 511, title 10, United States Code.

(6) Tours of active-duty-for-training of three (3) to six (6) months for graduates of officers' training programs under provisions of paragraph (1), subsection 6(d), the Universal Military Training and Service Act.

(b) The Secretaries of the Military Departments are authorized to include, in the budget for the regular service, funds to provide tours of active duty for reservists for the purpose of meeting temporary personnel requirements which may or may not be directly incident to the furthering of the Reserve Forces program.

§ 102.6 Basic requirements and policy.

(a) In order to insure that trained units and qualified individuals are available for active duty in time of war or national emergency, as set forth in sections 262 and 263 of title 10, United States Code, and that funds appropriated annually for reserve training are adequate to meet mobilization requirements but not excessive to such need, the Secretaries of the Military Departments shall take the following actions in accordance with the principles indicated, dependent on the particular needs of the Military Department concerned:

(1) Establish criteria by which individuals subject to the mandatory participation requirement will be placed in an appropriate training category. Such criteria shall include consideration of the individual's civilian employment and the proximity of established reserve drilling units to his place of residence or employment. No individual shall be involuntarily placed in Training Categories A, B, C, or E unless there is a vacancy in an established training unit within reasonable commuting distance, as determined by the Secretary of the Military Department concerned.

(2) Establish criteria for identifying all organized training units with a training category. Such criteria shall include, but not necessarily be limited to, the specialized nature of the training required and the availability to the unit of proper training aids and equipment necessary to perform the assigned training mission.

(b) In establishing the criteria called for in paragraph (a) of this section, the following considerations shall govern:

(1) Training prescribed should be the minimum number of inactive duty training periods and minimum periods of annual training required to maintain the proficiency of the unit or individual.

(2) Wherever practicable, multiple inactive duty training periods will be used as substitutes for weekly paid training periods.

(c) Those members of the Ready Reserve who are not subject to mandatory training participation requirements shall be encouraged to participate to the extent necessary to maintain their mobilization potential.

(d) Individual reservists who are qualified for retirement under the provisions of sections 1331 and 1332, title 10, United States Code, except for having reached 60 years of age, are required to attain 50 points annually to be retained in the Ready Reserve. Waiver of this requirement on a one-time basis may be made under exceptional circumstances by the Secretary concerned. This policy is effective with the anniversary date of each reservist's current training year (retirement year) beginning on or after July 1, 1967.

MAURICE W. ROCHE,
Director, Correspondence and
Directives Division, OASD
(Administration).

OCTOBER 19, 1967.

[F.R. Doc. 67-12663; Filed, Oct. 25, 1967;
8:49 a.m.]

Chapter VII—Department of the Air Force MISCELLANEOUS AMENDMENTS TO CHAPTER

Chapter VII of Title 32 of the Code of Federal Regulations is amended as follows:

SUBCHAPTER A—ADMINISTRATION

PART 806—DISCLOSURE OF UNCLASSIFIED RECORDS

Section 806.6 is amended by revising paragraphs (a) and (b), and § 806.9 is amended by revising paragraph (e) to read as follows:

§ 806.6 Persons authorized to disclose or not to disclose records requested by members of the public.

(a) Except for those categories of records listed in paragraph (c) of this section, the authority to make available records or other documentary material, or portions thereof, to members of the public is vested in commanders¹ at major command or comparable level or higher authority. This authority may be delegated, but not below the level of installation, wing, or comparable commanders¹ or chiefs of offices¹ at directorate or higher level within Hq USAF. Additionally however, the authority to release records and documentary material of a routine nature which heretofore by policy or practice have been made available to the general public may be delegated to a lower level, but must be maintained high enough to insure that releases are made by a responsible authority and are in accordance with this part. Examples of such types of records and documentary material are: Unclassified publications, organizational charts, photographs, local reports, and statistics, etc., not designated "For Official Use Only." Anyone having the authority to disclose and release records and other

documentary material is called a disclosure authority.

(b) When appropriate under this part, a disclosure authority at the major command or comparable level or directorate or higher authority within Hq USAF is authorized to refuse to make available records or other documentary material to members of the public. This refusal authority may not be delegated below this level, except that the authority to refuse to make available material described in § 806.5(a) may be delegated to commanders¹ at installation, wing, or comparable level, or chiefs of offices¹ at directorate or higher level, within Hq USAF.

* * * * *
§ 806.9 Addressing requests.
* * * * *

(e) For other records, where the location of the records is known: Director or chief, administrative services activity where record is located.
* * * * *

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012; 5 U.S.C. 552; DoD Directive 5400.7, June 1967) [AFR 11-30, Change 1, Sept. 15, 1967]

SUBCHAPTER H—AIR FORCE RESERVE OFFICERS' TRAINING CORPS

PART 875—DELAY IN ACTIVE-DUTY FOR AFOTC GRADUATES

A new Part 875 is added as follows:

- Sec.
875.0 Purpose.
- Subpart A—Definitions and General Responsibilities
- 875.1 Definitions.
875.2 Educational delay program responsibilities.
- Subpart B—Reserve Status of AFOTC Graduates and Policies Regarding Their Entry on EAD
- 875.3 Reserve status.
875.4 Delay policies.
- Subpart C—Procedures and Criteria for Delaying Entry on EAD
- 875.5 Periods of delay.
875.6 Reasons for granting delays and maximum delay periods.
875.7 Unauthorized delays.
875.8 Application for delay.
875.9 Exceptions to policy and criteria.
875.10 Special instructions for changing from rated to nonrated assignment after completing educational delay.
875.11 Delay Board.
875.12 Hq USAF Educational Delay Board.
875.13 Instructions for applying for delay or appeal of decisions and approval authority.

AUTHORITY: The provisions of this Part 875 issued under sec. 8012, 70A Stat. 483; 10 U.S.C. 8012.

SOURCE: AFR 45-31, Aug. 1, 1967.

§ 875.0 Purpose.

This part states policies and procedures for delaying the entry of Air Force

¹ The personal approval of these officials to disclose or refuse to disclose is not required. They may assign this responsibility to their principal deputy, vice commander, or chief of staff.

Reserve Officers' Training Corps (AF ROTC) graduates on extended active duty (EAD) after appointment as second lieutenants. It tells how to apply and process an application for delay for the purpose of pursuing graduate studies or alleviating a hardship condition.

Subpart A—Definitions and General Responsibilities

§ 875.1 Definitions.

(a) *Accredited educational institution.* A college or university listed as being accredited in the latest issue of Part 3, "Higher Education," of the Education Directory published by the U.S. Department of Health, Education, and Welfare. Accredited law schools are those approved by the American Bar Association.

(b) *Additional delay.* A delay granted to pursue a doctorate after receiving a master's degree, complete a medical internship, or complete the requirements for legal licensing.

(c) *Appeal.* A request for review by Hq USAF of a decision on a delay request.

(d) *Delay application forms.* AF Form 477, "Application for Delay From Entry on Extended Active Duty (AFROTC)," to be completed by a cadet/officer requesting either an educational or hardship delay; AF Form 478, "Application To Complete Legal Licensing Requirements," to be completed for additional educational delay.

NOTE: AF Forms 477 and 478 will be reproduced locally, each on 8" x 10½" paper.

(e) *Educational delay.* A delay granted an AFROTC graduate to pursue a full-time course of instruction in graduate or professional studies, at an accredited educational institution, for the purpose of obtaining an additional academic degree.

(f) *Extended active duty (EAD).* A tour of active military service (normally for more than 90 days) performed by a Reservist who occupies an authorized troop space of the active military establishment. Strength accountability for persons on EAD changes from the Air Force Reserve to the active military establishment.

(g) *Extension of delay.* A delay granted beyond the maximum period listed in § 875.6.

(h) *Full-time course of instruction.* An uninterrupted course of instruction (summer sessions included) defined as full-time under regulations of an accredited educational institution.

(i) *Hardship delay.* A delay granted an AFROTC graduate to alleviate a personal or community hardship condition.

(j) *Renewal of delay.* A delay granted beyond initial period authorized by the approving authority and within the maximum period listed in § 875.6.

§ 875.2 Educational delay program responsibilities.

(a) *Professors of aerospace studies (PAS).* (1) Insure that each cadet is

briefed on this part at the beginning of his final year in AFROTC.

(2) Require each AFROTC cadet:

(i) To make an initial statement of intent concerning plans to pursue graduate work, at the time he accomplishes ARPC Form 43, "Personnel Data—AFROTC."

(ii) To forward a delay application as directed by § 875.13, if he has indicated an intent to apply.

(3) Inform each AFROTC cadet, at the time of completing AF Form 477, that:

(i) If he is granted a delay and does not take it, his call to EAD will not have been programmed and he will be out of the normal assignment cycle. There may be more than 90 days' delay between his desired EAD date and the actual date of EAD.

(ii) An application for delay submitted less than 90 days before his scheduled commissioning date normally will not be approved, and he will be considered as available for EAD upon graduation. (See § 875.9.)

(b) *AFROTC cadets.* (1) Complete AF Form 477 as prescribed in § 875.13.

(2) Initiate all requests for delays within the time element prescribed in § 875.13.

(3) If granted an educational delay, comply with the requirement to forward a current transcript to Hq AFIT at the end of each grading period as specified in § 875.13, note 5.

Subpart B—Reserve Status of AFROTC Graduates and Policies Regarding Their Entry on EAD

§ 875.3 Reserve status.

(a) *AFROTC graduates.* Upon their execution of the oath of office as Air Force Reserve (AFRes) officers, all AFROTC graduates become Ready Reservists. Concurrently with their appointment as AFRes officers, the Commander, ARPC, will assign the graduates to the Obligated Reserve Section (ORS) of CAC.

(b) *AFROTC graduates granted a delay.* (1) Personnel granted delays will be retained in the ORS until ordered to EAD. They are not authorized to participate voluntarily in active or inactive duty training. In an emergency, delays may be terminated and officers may be ordered to EAD immediately. An officer's delay from entry on EAD does not relieve him from fulfilling his contractual agreement to serve on EAD upon termination of delay.

(2) A cadet, designated "Distinguished Graduate" and selected for a Regular Air Force (Reg AF) appointment, who applies for and is granted an educational delay will be appointed an AFRes officer. He may be tendered a RegAF appointment after entry on EAD provided he meets current criteria.

§ 875.4 Delay policies.

Unless granted a delay for educational or hardship reasons, AFROTC graduates will be programmed for entry on active duty within 90 days of their stated desire for EAD when possible within the

current Air Force program. This period may be longer in some cases, but normally will not exceed 1 year after commissioning. Those entering flying training are programmed for entry on EAD to meet specific class entry dates. The number of AFROTC graduates granted initial delays for educational reasons may be affected by the needs of the Air Force for EAD personnel. During normal years, the number of officers completing delays and entering EAD will compensate for the number of officers entering delay status. In times of international tension when more officers are required for EAD, the granting of initial delays and renewal of existing delays may be restricted. All educational delays will be closely monitored. Requests for delays for study to the doctorate level, with or without a master's degree, will be approved only if the Air Force has a valid need for the doctorate specialty.

(a) *Eligibility for the delay.* An AFROTC officer may be eligible for delay in reporting for EAD:

(1) If he has been accepted by an accredited educational institution to:

(i) Pursue a full-time course of instruction in graduate or professional studies.

(ii) Permit him to serve the internship if required to obtain an advanced degree.

(2) To complete the requirement for a license to practice law before the highest court of a State or a Federal court.

(3) If he would suffer extreme personal or community hardship as a result of entry on EAD. (See § 875.6.)

(b) *Approval of the delay.* An approval will be based upon the applicant's meeting the eligibility criteria prescribed for the appropriate delay, and the requirements of the Air Force at the time of application.

Subpart C—Procedures and Criteria for Delaying Entry on EAD

§ 875.5 Periods of delay.

An applicant may request a delay for the periods prescribed below:

(a) *Initial delay.* The initial delay may not exceed 1 year for an educational delay or 6 months for a hardship delay. If the purpose of the delay can be accomplished in less than this period of time, then the request will be for the lesser period.

(b) *Renewal of delay.* An educational delay may be renewed as prescribed in § 875.13, provided the applicant is satisfactorily continuing the studies in the same field for which delayed. A hardship delay may be renewed if the circumstances concerning the hardship condition warrant additional time. In either case, the total delay may not exceed that authorized by § 875.6.

(c) *Maximum delay period.* A delay period will not exceed that authorized by § 875.6. If the student's academic program can be arranged so that he can attain his degree in less than the time limit shown, an earlier graduation date will be established and the date will be binding.

§ 875.6 Reasons for granting delays and maximum delay periods.

Rule	If the person—	Then delay may be granted for—	And will not exceed—
1.	Has applied for enrollment or has been accepted or conditionally accepted for enrollment, in the first class (summer sessions included when offered) beginning after appointment.	Study leading to a master's degree.	2 years.
2.		Study leading to a law degree.	3 years.
3.		Study required for a degree in medicine, dentistry, veterinary medicine, or osteopathic medicine.	4 years.
4.		Study leading to a doctorate degree without award of a master's degree.	
5.	Has submitted a statement from the dean of the professional school indicating the reasons enrollment will not terminate at the end of the 4-year period.	An additional period to complete medical degree.	1 year.
6.	Has completed medical or pharmacy degree requirements except internship training.	Completion of medical or pharmacy internship.	
7.	Has completed degree requirements except internship in a nonmedical program. ¹	Completion of required internship.	
8.	Has completed academic work for award of a master's degree.	Study leading to a doctorate level degree.	2 years.
9.	Is enrolled in an institution that requires a 5-year course to obtain a B.S. degree and has satisfied requirements for a B.A. degree.	Attainment of a B.S. degree.	1 year.
10.	Has completed law degree requirements but has not been admitted to the practice of law before the highest court of a State or Federal court. ^{2,3}	Completion of the first examination for licensing in the State of his choice following attainment of the academic degree, in order to practice law.	
11.	Can submit documentary evidence that his entry on EAD would cause ⁴ undue personal or community hardship.	Hardship reasons.	

¹ A program (except medical and pharmacy) which includes internship, will be approved only when the internship is a published requirement for graduation. An internship that is voluntary will not be allowed as part of the approved program. The student's advisor must certify that the internship is, in fact, a mandatory requirement for the award of a degree.

² A person cannot be designated an Air Force judge advocate or assigned to duties in the legal career field in the Air Force until he has been admitted to practice law before the highest court of a State or a Federal court.

³ A person who cannot furnish documentary evidence that he has been admitted to practice law within the maximum delay period will be called to EAD in an Air Force specialty other than legal.

⁴ Personal hardship exists:

a. When the illness of a member of the reservist's family (that is, wife, child, brother or sister, parent, or any person who stands in loco parentis to the reservist) is such that, in the opinion of an attending physician, fatality appears imminent or the reservist's immediate departure may have a serious effect upon the patient.

b. When entry on EAD, after the death of a member of the reservist's family (see a above), would create a hardship on the surviving members and the reservist's presence is necessary in the settling of the estate.

c. When a member or members of the reservist's immediate family are dependent upon him for support and his presence is the only means of eliminating or materially alleviating the condition.

⁵ Extreme community hardship exists only if the service performed by the reservist is essential to the maintenance of the health, safety, or welfare of the community; the service cannot be performed by other persons residing in the area; and the reservist cannot be replaced in the community by another person who can perform the service.

§ 875.7 Unauthorized delays.

Delays will not be granted to individuals to:

(a) Pursue part-time work or part-time study.

(b) Receive advanced education leading to a degree of doctor of chiropractic or podiatry.

(c) Study theology.

(d) Work with the Peace Corps.

(e) Accept civilian employment by reasons of hardships or otherwise.

(f) Obtain a second degree at the same academic level.

§ 875.8 Application for delay.

(a) *Initial educational delay.* A cadet must submit AF Form 477 according to § 875.13. A cadet who has previously indicated an intention to apply is authorized to submit AF Form 477 without receipt of his college acceptance if he has not received it by the cutoff date for submission. However, the application must include evidence that the cadet has applied to the graduate school, or has been conditionally accepted for the graduate school. (As soon as formal acceptance is received, it must be submitted immediately.)

(b) *Hardship delay.* A cadet must submit AF Form 477 according to § 875.13.

(c) *Renewal of initial or additional delay.* An applicant must submit AF Forms 477 and 478 according to § 875.13.

§ 875.9 Exceptions to policy and criteria.

Requests for extension of the maximum delay periods outlined in § 875.6, or applications for delay submitted less than 90 days before the applicant's scheduled date of commission, normally will not be approved. The requests for extensions, exceptions, and waivers of policy or criteria will be approved only in exceptional or meritorious cases.

§ 875.10 Special instructions for changing from rated to nonrated assignment after completing educational delay.

An AFROTC graduate selected for a rated assignment (flying training categories I-P and I-N), who has been granted an educational delay and during this delay has become qualified for duty in a nonrated Air Force specialty related to his academic background, may request change of assignment to duty in the nonrated specialty.

(a) The person will request a nonrated assignment by letter to ARPC (RPCS), 3800 York Street, Denver CO 80205, at least 150 days before the termination date of the final educational

delay. He will include in the letter sufficient justification for requesting the change in category, and attach a copy of his college transcript.

(b) ARPC will notify USAFMPC (AFPMRE), Randolph AFB TX 78148, of all such assignment changes.

§ 875.11 Delay Board.

The Commander CAC, will establish a delay board at ARPC to consider and make determinations on applications for all delays and extensions listed below. The board will consist of at least three officers. An officer selected for membership on the board will be of field grade, when possible. A field grade judge advocate officer will be a voting member of the board in cases involving delay requests submitted by AFROTC cadets applying for law delays. Technical personnel will be used as required to assist board members.

(a) The ARPC Delay Board will consider the:

(1) Initial educational delay to obtain a master's degree.

(2) Initial educational delay to obtain a law degree.

(3) Additional delay, after graduation from law school, to complete the examination for licensing to practice law.

(4) Delay to obtain a B.S. degree, provided the college or university of enrollment requires a 5-year course for a B.S. degree and the applicant has satisfied requirements for a B.A. degree.

(5) Delay for hardship.

(b) All delay and renewal of delay requests will be processed expeditiously. ARPC will notify applicants of the board's decision within 5 workdays after receiving the appropriate applications (AF Forms 477 and 478). When a delay is denied, the applicant will be notified by "certified mail—return receipt requested."

§ 875.12 Hq USAF Educational Delay Board.

The Assistant DCS/Personnel for Military Personnel will establish the Hq USAF Educational Delay Board which will consist of at least three Air Force officers who possess broad and diversified experience. The board's primary functions will be to consider initial delays as shown in § 875.13, and review the ARPC Delay Board's decisions if applicants appeal them. Appeal procedures are as follows:

(a) The applicant must submit his appeal of the ARPC Delay Board decision to ARPC (Delay Board), within 5 workdays after receiving the notice that his request for delay has been denied.

(b) ARPC will send the correspondence and all documentary evidence to USAAFMPC (AFPMRDC), Randolph AFB TX 78148, within 5 workdays after receiving the applicant's request.

(c) The ARPC Delay Board will notify the applicant of the Hq USAF Educational Delay Board's decision by "certified mail—return receipt requested," within 5 workdays after receipt of the decision.

(d) The applicant will not send his appeal direct to USAFMPC.

§ 875.13 Instructions for applying for delay or appeal of decisions and approval authority.

Rule	A If request or appeal is for—	B And purpose of delay is to obtain—	C Then person will apply—	D Using format—	E And addressing request—	F And approving authority is—
1	Initial educational delay.	B.S., master's, or law degree.	No later than 90 days before graduation.	AF Form 477.	Thru PAS to ARPC. ¹	ARPC. ² (Note 3.)
2		Medical degree.				AFPMRDC (Hq USAF Educational Delay Board). ⁴
3		Doctorate degree.				
4	Renewal of educational delay.	Master's law, doctorate, or medical degree.	Each 12 months after entry on initial or additional delay.	(?) (?)	Direct to AFIT. Info cy to ARPC.	AFIT.
5	Additional educational delay.	Doctorate other than medical (see Rule 8, section 875.6).	Upon completion of master's degree. ⁵			AFPMRDC (H USAF Educational Delay Board). ⁴
6		Medical extension (see rule 5, section 875.6).	During medical school.			
7		Medical internship (see Rule 6, section 875.6).	Upon completion of medical degree requirements.			
8		Legal license (Rule 10, section 875.6).	150 days before graduation from law school.	AF Form 478.		ARPC. ³
9	Hardship delay.	Initial delay.	As soon as hardship arises.	AF Form 477.	Direct to ARPC.	ARPC.
10		Renewal of delay.	6 months after initial delay is granted.			
11	Appeal of delay decision.		Within 5 workdays from receipt of denial.	Personal letter.	Direct to ARPC Delay Board.	AFPMRDC (Hq USAF Educational Delay Board). ⁴

¹ PAS will insure completeness of the request before indorsement to ARPC.² A personal letter with an official current transcript of grades attached will be forwarded to AFIT (CIE).³ A copy of the approved delay request will be forwarded to AFIT.⁴ Hq USAF Educational Delay Board results will be forwarded to ARPC and AFIT for action and/or information.⁵ At the end of each grading period (School term), the student must forward a personal letter, with an official, current transcript of grades to: AFIT (CIE), Wright-Patterson AFB OH 45433.⁶ In request for additional delay, indicate the approving authority, date of approval, total period of delay, and major academic field of initial delay.

SUBCHAPTER I—MILITARY PERSONNEL

PART 882—DECORATIONS AND AWARDS

Section 882.25 is amended by deleting paragraph (j); new § 882.54a is added; § 882.77 is amended by adding the Combat Readiness Medal as the first entry in the table; and § 882.132 is amended by revising the last sentence to read as follows:

§ 882.25 Military decorations.

(j) [Deleted]

§ 882.54a Combat Readiness Medal.

(a) *Description.* Encircling a ring of stylized cloud forms, a border of concentric rays, its rim concave between 12 points, charged with 6 arrowheads, alternating with the points of 2 triangular flight symbols, having centerlines ridged conversely. One is pointed south and overlapping, and the other pointing north whose apex extends beyond the rim, becoming the point of suspension of the medal. The ribbon is predominantly old glory red and banded in blue, with a narrow dark blue stripe separated by two wider stripes of light blue.

§ 882.77 Authority for U.S. service awards.

Award—	Established by—
Combat Readiness Medal (CRM).	Secretary of the Air Force, March 9, 1964, with qualifying service retroactive to August 1, 1960, as amended on August 28, 1967.

§ 882.132 Oak leaf clusters.

* * * The oak leaf cluster is worn on the pendant ribbon and ribbon bar of all U.S. military decorations, the Combat Readiness Medal and the Air Force Good Conduct Medal, and on the ribbon bar of the Air Force Longevity Service Award Ribbon, Air Reserve Forces Meritorious Service Ribbon, Distinguished Unit Citation, Presidential Unit Citation, and the Air Force Outstanding Unit Award.

(Sec. 8012, 70A Stat. 488; U.S.C. 8012) [Interim Ch. 8, AFM 900-3, Sept. 15, 1967]

By order of the Secretary of the Air Force.

LUCIAN M. FERGUSON,
Colonel, U.S. Air Force, Special
Activities Group, Office of
The Judge Advocate General.

[F.R. Doc. 67-12619; Filed, Oct. 25, 1967; 8:45 a.m.]

SUBCHAPTER D—CLAIMS AND LITIGATION

PART 842—ADMINISTRATIVE CLAIMS

Supchapter D of Chapter VII of Title 32 of the Code of Federal Regulations is amended as follows:

Part 842 is revised to read as follows:

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AUTHORITY: The provisions of this Part 842 issued under sec. 8012, 70A Stat. 488; 10 U.S.C. 8012, except as otherwise noted.

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§ 842.0 Scope.

This part establishes standard procedures and uniform policies for administrative processing of claims; prescribes basic records and reports used to process claims arising out of Air Force activities and claims for which the Air Force has been assigned responsibility; tells how to prevent, process, and settle claims.

Subpart A—Processing Claims

§ 842.1 Who may present a claim.

(a) *Property damage.* (1) A claim for damage to, or loss or destruction of, property may be presented by the owner of the property, his duly authorized agent or legal representative or survivors, only as authorized in this part. (2) As used in this part, owner includes:

(i) *For real property.* The mortgagor, and the mortgagee if he can maintain a cause of action in the local courts involving a tort to that specific property. When notice of dividend interests in real property is received, the claim should, if possible, be treated as a joint claim.

(ii) *For personal property.* A bailee, lessee, mortgagor, and conditional vendee. A mortgagee, conditional vendor, or others having title for purposes of security only are not proper claimants. If more than one party has a real interest in the property damaged, all must join in the claim.

(b) *Personal injury or death.* (1) A claim for personal injury may be presented by the injured person or by his duly authorized agent or legal representative.

(2) A claim based on death may be presented by the executor or administrator of the deceased's estate, or by any other person legally or beneficially entitled to do so under local law governing the rights of survivors.

(c) *Splitting claims.* A claim will normally include all damages that accrue to a claimant by reason of an accident or incident. For example, when the same claimant has a claim for damage to or loss of property and a claim for personal injury or a claim based on death arising out of the same incident, each of these, or any combination of them, represent only an integral part or parts of a single claim or cause of action. Even if local law permits the filing of split claims for property damage and personal injury, such a split claim will not be settled or paid without the prior approval of Hq USAF (AFJALD).

(d) *Subrogation.* (1) The claims of a subrogor (insured) and subrogee (insurer) for damages arising out of the same incident constitute the basis of a single claim, and thus the total of such claims may not exceed the monetary jurisdiction of the approving authority. If either claim or the combined claim exceeds, or is expected to exceed settlement limits, neither claim will be approved for payment, but the claim file will be forwarded to the next higher authority. Care will be exercised to avoid the splitting of subrogated claims through improper approval for payment.

(2) The subrogor and the subrogee may file a claim jointly or individually. A fully subrogated claim will be paid only to the subrogee. Joint claims must be asserted in the names of and signed by the real parties in interest, and the approved payment will be by a joint check sent to the subrogee. If split claims are filed, payment will be by check issued to each claimant to the extent of his undisputed interest.

(3) Subrogated claims are not cognizable under Subpart B, C, D, or G of this part.

(e) *Insurance.* An insured claimant must make a detailed disclosure of his insurance coverage by stating:

- (1) Insurer's name and address.
- (2) Kind and amount of insurance.
- (3) Insurance policy number.

(4) Whether a claim has been presented to the insurer, and, if so, in what amount.

(5) Whether insurer has paid or is expected to pay the claim.

(f) *Signature on claim.* Claim forms will be signed in ink by the claimant. Signature will be first name, middle initial, and last name.

(1) *Claim presented by individuals.* (i) A married woman signs her name, e.g., Mary A. Doe, rather than Mrs. John Doe.

(ii) An authorized agent or representative who signs for a claimant must show, after his signature, his title or capacity and attach evidence of his authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian, or other representative, e.g., John Doe by Richard Roe, attorney in fact. The authority must have been executed within 180 days of presentation of the claim.

(2) *Claim with joint interest.* In States or countries where community property laws exist, both the husband and wife will sign the claim form if the claim is for

property damage or personal injury to either spouse. Where a joint ownership or interest in real property is recognized by law, both the husband and wife must sign the claim form.

(3) *A claim presented by a corporation.* (i) If a corporate officer signs the form, he will show his title or capacity and affix the corporate seal (if any) to the claim form.

(ii) If a person not an officer of the corporate claimant signs the claim form on behalf of the corporation, he must attach to the form a certification by a corporate officer that he is an agent of the corporation duly authorized to present and settle the claim, and must affix the corporate seal (if any) to the certification.

§ 842.2 Where to present a claim.

A claim will be presented to the commander of the military or civilian personnel involved, if known, or to the commander of the unit or installation at or nearest to which the accident or incident occurred. If the accident or incident occurred in a foreign country where no Air Force unit is stationed, the claim will be presented to the U.S. air attaché, any attaché of the U.S. Armed Forces, or Military Assistance Advisory Group personnel authorized to receive claims.

§ 842.3 Evidence to be submitted by claimant.

The claimant must submit competent evidence and information about the cause of the damage or injury for which claim is made, proof of ownership of property, and proof of correctness of the amount claimed.

(a) *Recoveries from third parties.* If the claimant has elected to proceed against a third party as a joint tortfeasor or has recovered from an insurer or common carrier, he reports the facts of such action and any amounts recovered for items of damage which otherwise may properly be included in the claim against the Government.

§ 842.4 Emergency payment to relieve hardship and suffering.

(a) Emergency payments up to \$1,000 may be made to a potential claimant for damage, injury, or death resulting from an accident involving an Air Force or ANG-controlled aircraft or missile.

(b) An emergency payment is not a gift or grant but an advance payment against future settlement. It is intended to relieve immediate hardship and suffering but is based on responsibility of the United States. If later a determination of no responsibility is made, no claim is filed, or the amount of the final award or judgment is less than the emergency payment, recoupment action will be taken.

§ 842.5 Transfers and assignments of claims.

Transfers and assignments of claims against the United States ordinarily are null and void under 31 U.S.C. 203; exceptions are assignments of claims by operation of law, such as to receivers or trustees in bankruptcy or administrators

of estates. Provisions of the statute do not apply to claims of insurance subrogees based on involuntary assignments.

§ 842.6 Participation in prosecution of claims and disclosure of information.

(a) *Aid to claimants prohibited.* Air Force personnel are forbidden to:

(1) Represent or aid any claimant or potential claimant in the prosecution or support of any claim against the United States.

(2) Receive any gratuity, share, or interest in any claim against the United States.

(b) *Fulfillment of official duties excepted.* The prohibition against furnishing aid to a claimant does not include the assistance that claims officers and other personnel render as an official part of their duties. When he asks, the claimant may:

(1) Be advised how to present a claim and helped to prepare the claim and assemble evidence.

(2) See or have returned to him or his representative any evidence he originally furnished, including documentary evidence.

§ 842.7 Prejudging claims.

No Air Force personnel will, before settlement action is taken by the approving authority:

(a) Express any opinion to the claimant about whether his claim should be approved or disapproved. (Claimant may be told what Air Force policy is on sonic boom claims and engineering investigations, and what the investigating engineer thinks caused the claimant's damage.)

(b) Reveal to claimant the recommendations made by initiating authorities and other headquarters below the approving authority.

Subpart B—Article 139 UCMJ Claims (10 U.S.C. 939)

§ 842.10 Scope and limitations of Article 139.

(a) *Damage covered by Article 139.* Only property that has been willfully damaged, lost, or destroyed or wrongfully taken—maximum amount recoverable is \$250, regardless of number of persons involved.

(b) *Proper claimants.* Any person or legal entity except an insurer or subrogee and the United States and its instrumentalities; military personnel, States, counties, and municipalities are proper claimants.

(c) *Who may be held liable.* Only members of the U.S. Armed Forces.

NOTE: The Article 139 procedure is the only legal means by which an Armed Forces member can be forced to reimburse from his pay the property damage suffered by an injured party. Under AW 105 all persons subject to military law, including certain categories of civilian employees, could be held responsible. Article 139, however, is so worded that it precludes stopping the pay of a civilian employee to pay for damage to private property.

(d) *Right of appeal.* Article 139 provides no right of appeal for either claim-

ant or offender, but commander may reconsider a case.

(e) *Statutes of limitations.* See § 842.12(g).

(f) *Disciplinary action.* Action under this subpart does not in any way affect, nor is it affected by, disciplinary action taken against offenders; the two actions are separate and distinct.

§ 842.11 Cognizable claims.

Claims cognizable under Article 139 are those resulting from:

(a) Riotous, violent, and disorderly conduct or acts of depredation by an individual or group that evinces a reckless disregard of property rights with an implication of guilty intent, or from a wrongful taking of property. Such acts as raiding an apple orchard, watermelon patch, bar or lunch stand and breaking street lights are cognizable; so are larceny, forgery, deceit, embezzlement, fraud, misappropriation, and similar offenses when they involve a wrongful taking.

(b) Willful damage due to gross negligence, i.e., an entire want of care which would raise the presumption of a conscious indifference to the rights of others equivalent to the intentional violation of them.

§ 842.12 Claims not cognizable under Article 139.

Claims are not cognizable when the taking, damage, loss, or destruction of property involves any of the following:

(a) Claims cognizable under other regulations, except those resulting from an act or omission that occurred outside the scope of the member's employment may be processed under this subpart, either in whole or part, if specific authority has been obtained from the approving authority concerned.

(b) Claims resulting from simple negligence.

(c) Subrogation claims.

(d) Any portion of a claim covered by insurance, regardless of whether claim is made against the insurer.

(e) Claims for personal injury or death.

(f) Claims for damage, loss, or destruction of property resulting from acts or omissions of military personnel while acting within the scope of their employment.

(g) Complaints presented more than 90 days after the incident out of which the claim arises, unless the commander acting on board report determines that good cause has been shown for the delay in making complaint. (The commander's determination that good cause has or has not been shown is final.)

(h) Claims for Government property, including property furnished through the Armed Forces Clothing Monetary Allowance System or issue.

(i) Claims for damage, loss, or destruction of property caused wholly or partly by a negligent or wrongful act of the claimant, his agent or his employee.

(j) Claims for indirect damages.

(k) Claims paid by the United States under statute or international agreement.

(I) Claims resulting from acts or omissions of civilian employees.

§ 842.13 How claimant presents claim.

Any person who believes that his property has been willfully damaged or wrongfully taken by military personnel may complain, orally or in writing, to the commander of the alleged offender. If he does not know the alleged offender's unit, he may complain to the commander of the nearest Air Force base, station, installation, unit, or attaché. Before final action is taken, claimant must present a written claim, in triplicate, for a definite amount. When appropriate the written claim may be considered the complaint.

Subpart C—Personnel Claims

§ 842.20 Scope of subpart.

This subpart tells how to administratively settle and pay claims presented by Air Force military and civilian personnel and Air National Guard and Air Force Reserve military personnel for personal property damaged or lost incident to their service.

§ 842.21 General provisions.

(a) *Governing statute*, 31 U.S.C. 240-242 (Military Personnel and Civilian Employees' Claims Act of 1964, as amended, Sept. 15, 1965 (79 Stat. 789)) provides that claims may be considered when the personal property is reasonable, useful, or proper and the loss, damage, destruction, capture, or abandonment was incident to service. If a claim is cognizable under this statute, it must be processed under this subpart; if doubt exists, the approving authority makes final determination.

(b) *Proper claimants*. All active duty Air Force military and civilian personnel and AFRs and ANG military personnel engaged in inactive duty training under Federal law, their authorized agents and legal representatives, and their survivors in following order of precedence: (1) Spouse; (2) child or children; (3) father, mother, or both; (4) brother, sister, or both. Air Force retired military personnel, if damage is in connection with last movement of personal property incident to service.

(c) *Statute of limitations*. Claim must be presented in writing within 2 years after it accrues, except during war or armed conflict, or if war or armed conflict occurs within the 2-year period following accrual, when claimant shows good cause, the claim may be presented within 2 years after the cause ceases to exist but not more than 2 years after termination of the war or armed conflict. A claim accrues when loss or damage is or should have been discovered by claimant even though such loss or damage occurred at a prior time.

(d) *Right of appeal*. Action of approving authority is final, but he may reconsider a decision.

§ 842.22 Presenting cognizable claims.

(a) *Presenting claims for separate losses*. Present in a single claim all known losses or damage to personal property

authorized transportation or storage on the same orders. For example, if an automobile, hold baggage, and household goods or other household effects are damaged while being transported, all will be presented in the same claim. However, if this procedure causes a hardship to the claimant, he may present his claim, be paid for the then known monetary loss, and amend it later when damage to other parts of his shipment has been established. If, for instance, immediate repair of the damaged automobile is necessary, the claim for such damage may be paid before the household goods damage claim. Also, if the claimant's entire household goods are destroyed, and a definite hardship exists, he will be permitted to present claim for items which are readily capable of adjudication, such as major appliances and furniture. The approving authority can then settle the partial claim and return the file to the claims officer for the claimant to present his supplemental claim.

(b) *What claims are cognizable under this subpart*. Claims for tangible personal property (including money) lost or damaged incident to service are cognizable and payable under this subpart, but only for types, quantities, or amounts that the approving authority determines to be reasonable, useful, or proper under the circumstances at the time and place of the loss. In making his decision, the approving authority will consider the type and quantity of property involved, the circumstances attending its acquisition and use, and whether possession or use by the claimant at the time of the loss or damage was incident to service.

(1) *Borrowed property*. Property borrowed from others may be the subject of a claim. For example, if one airman borrowed a suitcase from another to transport personal property while on TDY and the suitcase was damaged or lost en route, the borrower would be the proper claimant. However, this provision does not cover property damaged while being transported by one person for another merely to avoid a weight restriction and is not cognizable under this subpart.

(2) *Transportation losses*. Cognizable transportation losses include those incident to transportation or storage pursuant to orders, travel under orders, and duty performance, including losses to property in the custody of a common or contract carrier or other commercial firm under contract with the Government, a Government agency, or a claimant traveling in a private or public conveyance in duty performance. Claims for loss or destruction of property stored at a commercial facility for the personal convenience of a claimant and at his own expense are not payable under this subpart.

(1) Although JTRs do not usually authorize property to be shipped on orders if it was acquired after the effective date of orders, the Air Force does not disapprove claims for reasonable household goods so purchased.

(II) Normally, not more than \$25 may be approved for tools shipped in an automobile. However, if no household goods are shipped and tools in excess of standard automobile tools are shipped with the car, the shipper may be compensated a reasonable and proper maximum amount for the tools.

(III) Only the transportation officer (never the carrier) may state what essential items will be included in an expedited mode of transportation (paragraph 8005.1, JTR). The Air Force will consider claims for any personal property authorized to be shipped by expedited mode.

(IV) Actual released valuation of household goods is shown on the Government Bill of Lading (GBL). (Exception: Released valuation for CONUS interstate shipments will not be shown on the GBL when the governing Military Rate Tender provides that shipments will be deemed released to a value of 60 cents per pound per article. If the owner requests a valuation in excess of the prescribed minimum of 60 cents per pound per article, this will be annotated on the GBL.)

(V) Claims for depreciated value of missing property that is replaced by necessity when a shipment is lost for a long period of time are payable. If replacement of items essential to everyday use was necessary, the depreciated value can be awarded even though missing items were delivered before claim is presented or perfected. The approving authority will determine which items are essential and whether they could have been borrowed from Government sources.

(3) *Losses resulting from marine or aircraft disaster*. Losses experienced by crew members and passengers in marine or aircraft disasters while in a duty status are cognizable. They may include jettisoned baggage, items of clothing being worn at the time of the disaster, a reasonable amount of money, reasonable and proper amounts of jewelry, and other lost items. Losses by Air Force members or employees in leave status are payable only if they occur during authorized Government transportation.

(4) *Losses due to enemy action or public service*. Such losses may include:

(1) Those due to enemy action; action to prevent capture or confiscation; or combat, guerrilla, brigandage, or other belligerent activity, regardless of whether the United States was involved; or unjust confiscation by a foreign power or its nationals.

(II) Action by the claimant to quiet a civil disturbance, alleviate a public disaster, or save human life or Government property.

(5) *Loss of money*. Cognizable money losses are those resulting from:

(1) Nonavailability of local commercial facilities or when existing facilities are not generally used by U.S. personnel.

(II) Failure of Government officials to either apply as directed or return personal funds turned over to them, because of their apparent authority to receive them, for safekeeping; deposit in Uniformed Services Savings Deposit Program; transmission by personal transfer

account; purchase of U.S. bonds or postal money orders; conversion into military payment order, Government check, or other kind of currency; or other authorized disposition. When a Uniformed Services Savings Deposit claim is determined payable, the claimant is entitled to the principal sum deposited plus interest accrued to the time the claim is approved (Public Law 89-538 (80 Stat. 347)).

(iii) Theft from assigned quarters in the United States or any quarters outside the United States.

(6) *Damage to or loss.* (i) Privately owned automobiles and other motor vehicles and their component parts (including tools) when shipped to, from, or between overseas areas under permanent change of station orders; on a space required reimbursable basis in connection with overseas travel under orders; or as a replacement vehicle under the provisions of Public Law 89-101 (79 Stat. 425) (paragraph M11006, JTR) (including on-loading and off-loading operations). Under special or unusual circumstances, damage or loss of component parts (including tools) that have been accepted by the Government for shipment may be recommended to the approving authority for consideration as a transportation loss (see subparagraph (2) (ii) of this paragraph).

(ii) *Housetrailer and contents in shipment:* Claim is not payable if damage to the housetrailer results from negligence of the owner or is due to structural or mechanical failure or construction defects. (If possible, include in claim file photographs of the damage and expert evidence that it was or was not due to structural failure.) All claims for loss or damage to contents of housetrailer must be supported by a copy of the inventory of such contents prepared at the time the mobile home was shipped and by a statement of the condition of the mobile home before shipment, if appropriate. (See chapter 7, part C, 71005, volume 2, JTR, Dec. 1, 1965, and chapter 10, part A, 10003, volume 1, JTR, Nov. 1, 1964.)

(7) *Losses at quarters or other authorized places, caused by unusual occurrences.* These losses include those caused by fire, flood, hurricane, typhoon, tornado, cyclone, explosion, earthquake, and similar catastrophes and disasters.

(i) "Quarters", as used in this subpart, include:

(a) Substandard quarters and trailers occupied by the claimant that were assigned or otherwise provided in kind by the Government and privately owned trailers for which space is provided on base, in the United States and overseas.

(b) Garages, carports, or attached buildings and driveways connecting these buildings with a street or thoroughfare and parking lots adjacent to quarters, if specifically assigned for use by occupants of those quarters (does not include on-street parking).

(c) Quarters occupied by the claimant outside the United States but not assigned or otherwise provided in kind by the Government, except those occupied by a civilian employee who is a local inhabitant. Quarters assigned or otherwise furnished in kind by the Government to a local inhabitant who is a civilian employee of the Air Force are included.

(ii) "Other authorized places" include any warehouse, office, hospital, baggage-holding area, or other place authorized to receive or store property.

(8) *Theft of property.* Claims are payable if claimant has exercised due care in protecting his property, and theft occurred at:

(i) *Quarters:* Since money, jewelry, cameras, and other small items of substantial value are highly susceptible to theft, "due care" requires that they be secured within quarters which are themselves secured. Mysterious disappearance claims will not be paid.

Claims for—

Small items of substantial value and money shipped or stored with household goods or as unaccompanied baggage (includes stamp and coin collections and trading stamps) which are missing on delivery of shipment unless shipment by expedited mode was requested (see note).

Articles acquired, purchased, possessed, or transported for persons other than the claimant or members of his immediate family except as reasonable bona fide gifts.
Intangible property-----

Government property-----

Enemy property.

Property at quarters within the United States that were not assigned or otherwise provided in kind to the claimant, including theft.

Losses recovered or recoverable from an insurer or carrier.

Property not recoverable from insurer or carrier because of negligence of claimant, or his agent or employee.

Property for which losses, or any portion of losses, have been recovered or are recoverable pursuant to contract.

Damage to property caused by negligence of claimant.

(a) *Quarters outside the United States:* Quarters need not have been assigned or provided in kind by the Government unless claimant is a non-U.S. citizen employee who is a local national or a locally hired employee. The only criterion is that due care was exercised.

(b) *Quarters in the United States,* assigned or otherwise provided by the Government: Payable only when definite proof of loss through larceny, burglary, or housebreaking is presented.

(ii) Any warehouse, office, hospital, baggage-holding area, storeroom, or other place authorized to receive or store property.

(9) *Clothing and accessories worn on the person.* Claims for such items may include eyeglasses, hearing aids, or dentures, but not items of Government property.

§ 842.23 Cognizable claims not payable.

Although otherwise within the scope of this subpart, the following types of claims are not payable:

Remarks—

Articles easily lost, damaged, or pilfered (including watches and expensive jewelry such as rings, pins, broaches, necklaces, and bracelets) should be carried, shipped, or stored as high value items—for this purpose sterling silver flatware, hollow ware, costume jewelry, and silver service are not "items of extraordinary value" and require no special handling unless shipped in a house trailer.

This category includes articles acquired at the request of others and articles for sale or use in a private business enterprise.

A chose in action, or evidence thereof, such as bankbooks, promissory notes, stock certificates, bonds, bills of lading, warehouse receipts, baggage checks, insurance policies, money orders, and travelers' checks, is not a basis for payable claims.

Includes property furnished through the Armed Forces Clothing Monetary Allowance System or through issue except when military clothing is lost or damaged in shipment incident to a service member's last move before release from active duty or when items of clothing are in excess of the quantity required under the Monetary Allowance System.

Includes damage or loss of personal property caused in whole or part by lack of due care, negligence, or wrongful act of the claimant, his wife or other agent or an employee while acting within the scope of his employment.

Claims for—Continued

Major appliances in storage damaged because of nonuse.

Remarks—Continued

If qualified repairmen determine that major appliances, such as television sets, washing machines, dryers, refrigerators, and freezers have deteriorated in storage and are not functioning properly solely because of nonuse, neither repair costs nor depreciated value will be paid. If nonuse is only partially responsible for nonfunctioning, and other storage conditions such as dampness, heat, etc., also contribute, 50 percent of the repair costs will be paid. If item is beyond economical repair, a straight rate, rather than 50 percent of normal depreciation rate, will be applied for the storage period.

Fees for obtaining repair estimates in connection with submitting a claim under this subpart.

Exception: When the approving authority determines that the claimant could not obtain an estimate without paying a fee, he will allow an amount that he determines to be reasonable in relation to the value of items or cost of repairs, but only if the fee will not be credited to the cost of repair when the work is accomplished.

Items acquired, possessed, transported, or stored in violation of any U.S. Armed Force directive or regulation.

Motor vehicles, including automobiles, motor bikes, motor scooters, bicycles, aircraft, and boats.

If damage to claimant's vehicle occurred when it was being used while he was on TDY or PCS orders with travel by POV authorized, or if vehicle was lost by theft or vandalism while not in Government custody or located at assigned quarters.

Items fraudulently claimed-----

When investigation discloses that a claimant, his agent, or employee has intentionally misrepresented the cost, condition, repair cost, etc. of any item claimed, that item will be disallowed in its entirety even though it sustained actual damage. However, the remainder of the claim, if proper, will be paid. This action will not preclude investigation and action under UCMJ, if warranted. (Note: A mere mistake in stating the amount of damage or loss will not be considered intentional misrepresentation for claims purposes.)

Agent or attorney fees.

Note: If small items of substantial value are lost or destroyed because of fire, flood, hurricane, sinking of vessel, or other serious occurrence, the foregoing is not applicable. Items of extraordinary value, except bulky items, are not payable unless shipment by expedited mode was requested.

§ 842.24 Claims not cognizable.

- (a) Any claim that did not arise incident to service.
- (b) Subrogation claims.
- (c) Assigned claims.
- (d) Conditional vendor claims.
- (e) Claims by non-Air Force personnel, such as Red Cross employees, USO performers, contractor employees (including technical representatives), nonappropriated fund employees and Civil Air Patrol members and cadets. However, a member of another U.S. Armed Force may present a claim to the Air Force for loss of or damage to personal property incident to his service under 31 U.S.C. 240-242. The claims officer will investigate such claims locally under provisions of this subpart and forward completed file direct to the service concerned. Include in the file appropriate recommendations and all required supporting documents, including evidence pertaining to recovery from a carrier, insurer, or other third party.

§ 842.25 Actions when lost or damaged property is insured.

- (a) *Action by claimant.* (1) Consult base staff judge advocate for assistance in negotiating with the insurance company. (As a rule, the claim against the insurer should be concluded before a personnel claim is settled.)
- (2) Make written demand on insurer for reimbursement under terms and conditions of insurance coverage and within the time limits prescribed by the policy before filing claim against the Government. (If the only insurance is the warehouseman's or carrier's tariff liability, the claims officer will prepare a written demand on such insurer for claimant's signature but will not hold a claim against the Government in abeyance pending a response to the demand.)

§ 842.26 Transfer and assignment of rights.

- (a) When he executes AF Form 529, the claimant assigns to the United States,

to the extent of any payment he accepts, all his rights, title, and interest in any claim against any carrier, contractor, warehouseman, insurer, or other party arising from the incident on which his claim against the United States is based. When requested, he must also furnish any evidence the U.S. Government may require to enforce the claim.

(b) The claimant must remit to the United States any award he receives from any such party, up to the amount of the award he accepted from the United States.

§ 842.27 Replacement in kind.

When a claim is cognizable and payable under this subpart, the commander of the organization to which the claimant is assigned or attached may direct that lost or damaged personal property be replaced in kind from available Air Force stocks.

Note: Disapproved claims cognizable under AFM 67-1 may not be reopened for consideration under this paragraph.

§ 842.28 Claims procedure.

When the cost of repair or damage does not exceed \$50 an item and the claims investigator has actually inspected the damaged property, the claims officer and the claimant may agree on a reasonable amount to be claimed for repairs on an individual item in lieu of an independent estimate or appraisal by a qualified repairman. In such cases, the claims officer will certify that the property has been examined and that, in his opinion, the amount claimed is a reasonable allowance for the cost of repairs.

§ 842.29 Settlement authority.

(a) Personnel claims for more than \$10,000 may be presented but cannot be administratively paid in excess of \$10,000.

(b) The Secretary of the Air Force or his designees may settle personnel claims against the United States payable for \$10,000 or less. The Secretary has delegated his authority to settle such claims to the following persons:

- (1) Claims payable for \$10,000 or less:
 - (i) The Judge Advocate General.
 - (ii) The Assistant Judge Advocate General.
 - (iii) Chief, Claims Division.
 - (iv) Assistant Chief, Claims Division.
- (2) Claims payable for \$5,000 or less: Staff Judge Advocate of Air Force Logistics Command.
- (3) Claims payable for \$2,500 or less:
 - (i) Staff Judge Advocates of:
 - (a) Ogden Air Materiel Area.
 - (b) Oklahoma City Air Materiel Area.
 - (c) Sacramento Air Materiel Area.
 - (d) San Antonio Air Materiel Area.
 - (e) Warner Robins Air Materiel Area.
 - (f) Wright-Patterson Air Force Base.
 - (g) Alaskan Air Command.
 - (h) Headquarters Command.
 - (i) Pacific Air Forces.
 - (j) Seventh Air Force.
 - (k) Thirteenth Air Force.
 - (l) Twenty-sixth Air Division.
 - (m) U.S. Air Forces in Europe.
 - (n) U.S. Air Force Southern Command.

(ii) Director of Claims, U.S. Air Forces in Europe.

(iii) Chief, U.S. Armed Forces Claims Service, Japan.

(iv) Chief, Claims Division, Pacific Air Forces.

(4) Claims payable for \$500 or less: The staff judge advocate of each Air Force base, station, and fixed installation.

§ 842.30 Property recovered by claimant.

(a) When the claimant executes the AF Form 529, he is advised and agrees that if any of the property for which the claim is made is later recovered he will notify AFJALD immediately. If he recovers property after this claim has been paid, the claimant may:

(1) Accept all of the property and return the payment awarded to him by the Air Force.

(2) In the presence of the claims officer, examine the property and state his intention to keep certain items for which he has been paid. The claims officer will then obtain from the approving authority or the office where the closed claim is filed the amount paid on each item the claimant has elected to retain. The claimant then forwards through the claims officer to the approving authority a check or money order for the total amount, made payable to the Treasurer of the United States.

(3) Disclaim any interest in the property and request that it be turned over to the Air Force R&M officer at the nearest Air Force installation.

§ 842.31 Items turned in for salvage.

If an item on which an award is based is determined to have salvage value, the approving authority notifies the claimant in writing that the item must be delivered to the Air Force Redistribution (R&M) office as a condition to payment of his claim. (Exception: If claims officer had determined that the cost to turn the property in to Government salvage would exceed its monetary value, he may ask the claimant to discard it.)

Subpart D—Claims Under the Military Claims Act (10 U.S.C. 2733)

§ 842.40 Scope of subpart.

This subpart tells how to administratively settle and pay certain claims against the United States for damage to or loss of property and for personal injury or death caused by Air Force military or civilian personnel acting within the scope of their employment or otherwise incident to Air Force noncombat activities.

§ 842.41 General.

(a) The Military Claims Act (10 U.S.C. 2733) provides worldwide authority to administratively settle and pay certain claims for property damage, personal injury, or death caused by military personnel or civilian employees of the Air Force engaged in the scope of their employment and claims arising from noncombat activities of the Department in

an amount not over \$5,000. Claims approval in excess of \$5,000 may be reported to the Congress for its consideration. The claimant must accept an award in full satisfaction of the claim.

(b) The Military Claims Act is an act of grace. A claimant acquires no legal or equitable rights merely because his injuries or damage are cognizable under it.

§ 842.42 Noncombat activities.

(a) Some examples of noncombat activities are maneuvers and special field exercises; practice firing of heavy guns and missiles; practice bombing; operation of spacecraft and aircraft, including the generation of sonic booms; use of balloons; and movement of combat vehicles or other equipment designed for military use, such as prime movers, amphibious vehicles, and other vehicles not primarily designed or used for civilian purposes.

(b) The noncombat activities provision is the only means by which the Air

Force may settle many claims that arise from its activities. Since in missile and aircraft operations (including sonic booms) a claimant would have difficulty establishing negligence of Air Force personnel, he need not allege or prove negligence or a wrongful act by military or civilian personnel to recover for damage or injury resulting from noncombat activities. Nor must he allege and prove that the military or civilian personnel who cause the damage or injury were acting within the scope of their employment. He need prove only a causal connection between an authorized noncombat activity and his injury or damage. Certain claims, such as those arising out of aircraft accidents, might appear to arise from negligence but, for historical and practical reasons, they are treated administratively as arising under the noncombat activities provisions of this Act (also see 28 U.S.C. 2680).

§ 842.43 Proper claimants.

Proper claimants—

Property owners or their representatives (upon presentation of evidence of authority to act for owner, an authorized agent or legal representative may present a claim in the name of the claimant).

Scope and limitations—

Includes those who stand in a certain legal relationship with record owner, such as bailee, lessee, mortgagor, or conditional vendee, but not one who holds title only for security purposes (e.g., conditional vendor). If record owner is paid for property damage, a person who has purchased the property under an executory agreement may not be paid for the same damage. However, make every effort to unite all interested parties as joint claimants. If an insurer has fully compensated an owner for his loss, the insurer is the only proper claimant. When only part of loss has been compensated, the insurer and owner may present claims jointly or separately; if aggregate of both claims totals more than monetary jurisdiction of approving authority, he may not settle either claim but must forward both, with claim files, to the appropriate approving authority or AFJALD.

Applies if claim is not cognizable under Subparts C or I.

Subrogees

Military and civilian personnel of the United States.
States or State agencies, counties, and municipalities.
Prisoners of war or interned enemy aliens in the United States.
Members of Armed Forces of the United States on active duty.

May present claims for damage to or loss of private property if otherwise payable. For claims for property damage at an Air Force base or installation that resulted from negligent or wrongful action or omission of Air Force member or civilian employees acting within the scope of their employment.

Persons in a foreign country who are not inhabitants of it.

For claims rising out of Air Force noncombat activities in that country; or out of negligent or wrongful acts or omissions of Air Force military or civilian personnel acting within the scope of their employment in the foreign country (except military and civilian personnel who suffer injury or death incident to their service, and their representatives).

NOTE: If a claim arises from the acts of military personnel the scope of employment is not necessarily synonymous with the line of duty determination. If claim rises from acts of civilians, note that prisoners of war and interned enemy aliens are considered civilian personnel when engaged in labor for pay; so are volunteer workers and others serving as Air Force employees, even though without compensation, if they are supervised and controlled by authorized Air Force personnel. However, household servants employed in quarters of military or civilian personnel are not. The source of wages and supervision are factors to be considered in this decision.

§ 842.44 Claimants excluded.

(a) Military personnel or civilian employees of the United States who suffer personal injury or death incidental to their service, and their legal representatives.

(b) Nonappropriated fund instrumentalities.

(c) Ballees, when the bailor has, by express agreement, assumed the risk of damage, loss, or destruction.

(d) Other agencies or departments of the U.S. Government, except the Post Office Department for APO claims.

§ 842.45 Claims payable under this subpart.

See § 842.46.

(a) *Bailment claims.* A bailment is not created merely by the act of placing personal property in a Government area. There must be an authority by which the Government accepts custody of the property, and it must be accepted on behalf of the Government.

§ 842.46 Claims payable and not payable under this subpart.

(c) *Contract claims.* Normally, claims enforceable under a lease or other express contract should be settled under contract procedures.

§ 842.46 Claims payable and not payable under this subpart.

Rule	A If claim arises from—	B Then it is payable under this subpart	C And—	D Then it is not payable under this subpart
1.	Noncombat activities whether or not negligence is alleged or present.	X		
2.	Negligent or wrongful act or omission by Air Force military or civilian personnel in the scope of their employment that results in personal injury or death, or damage to real or personal property when not cognizable under (but not prohibited by) the Federal Tort Claims Act, the Foreign Claims Act, or an international agreement (but see Rule 7).	X		
3.	Loss or damage of personal property shipped at Government expense by persons not proper claimants under Subpart C of this part.	X		
4.	Damage to or loss or destruction of registered or insured mail while in custody of authorized Air Force military or civilian personnel, e.g., unit mail clerks, even though damage or loss resulted from criminal acts or Air Force noncombat activities.	X		
5.	Damage to or loss of bailed property (see § 842.45(a)).	X		

of the Air Force by authorized personnel acting in their official capacities. Bailment claims are not payable if the bailor has, by express agreement, assumed the risk of damage, loss, or destruction.

(b) *Claims arising from lost or damaged mail.* When registered or insured mail is delivered to the Air Force by the Post Office Department or Military Postal Service (APO or FPO), the Air Force assumes responsibility for transporting and distributing it to the authorized military and civilian personnel. Claims for loss or damage to mail before its delivery to authorized Air Force personnel or after redelivery to the Post Office Department or Military Postal Service must be presented to the Post Office Department for consideration under its contract of indemnity with the sender.

(c) *Contract claims.* Normally, claims enforceable under a lease or other express contract should be settled under contract procedures.

§ 842.46 Claims payable and not payable under this subpart.

Rule	A If claim arises from—	B Then it is payable under this subpart	C And—	D Then it is not payable under this subpart
6.	Combat activities of military forces during war or armed conflict.			X
7.	Injury to or death of military personnel incident to their services.			X
8.	Injury to or death of civilian employees covered by Federal Employees' Compensation Act (5 U.S.C. 8101) or Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 901), as applicable to certain civilian employees of nonappropriated fund instrumentalities of the U.S. Armed Forces (5 U.S.C. 210(c)), under Act of July 18, 1953 (5 U.S.C. 811-817).			X
9.	Death, injury, or damage in a foreign country when claim is presented to authorities of a foreign country under Act of July 18, 1953 (5 U.S.C. 811-817), XVIII, Japanese Forces Agreement, Article XVIII, Japanese Status of Forces Agreement, or similar treaty or agreement, if reasonable disposition was made of claim and claimant has given U.S. Government release.			X
10.	Death, injury, or damage occurring in a foreign country to an inhabitant of that country.			X
11.	Purely contractual transactions.			X
12.	Private, as distinguished from Government, transactions.			X
13.	Patent or copyright infringement.			X
14.	Damage, rent, or other expenses or income involved in acquisition, possession, and disposition of or interest in real property by and for the Air Force.			X
15.	Taking of private real property by trespass by flight of aircraft over property.			X
16.	Loss or damage of mail of any type in the possession of the Post Office Department, a Military Postal Service or to ordinary mail and minimum-rate insured mail without an insurance number or requirement for hand-to-hand receipt, and loss of registered mail by enemy action.			X
17.	Loss of rental fee for personal property.			X
18.	Death, injury, or damage that is being litigated against the United States.			X

NOTE: No award for any claim under this subpart may include reimbursement for any medical, hospital, or burial expenses borne by the United States.

§ 842.47 Contributory negligence.

Any negligent or wrongful act on the part of the claimant, his agent, or employee, whether or not acting within the scope of his employment, that is, in whole or part, the proximate cause of the incident, bars recovery. It is immaterial that the law of the situs follows the comparative negligence doctrine. The presence or absence of contributory negligence is normally determined by local law.

§ 842.48 Statute of limitations.

A claim must be presented in writing within 2 years after it accrues, unless it

accrues in time of war or armed conflict, or a war or armed conflict intervenes within 2 years after it accrues, and claimant shows good cause. In such event, the claim must be presented not later than 2 years after the war or armed conflict is terminated. Commencement and termination dates of an armed conflict will be as established by concurrent resolution of the Congress or determined by the President.

§ 842.51 Scope and limitations of foreign claims.

Applicable law—	Statute of limitations—	Right to appeal—	Proper claimants—	Excluded claimants—
10 U.S.C. 2734.	2 years from date claim accrues.	No appeal right.	Foreign nationals who are inhabitants of any foreign country; U.S. citizens or corporations who actually inhabit the foreign country in which claim arises; A national government, and its political subdivisions (such as municipal or preteritorial governments) of a foreign country.	A national (or national-controlled corporation) of a country engaged in war or armed conflict with the United States or its ally (see Note 1); U.S. Armed Forces military and civilian personnel domiciled in United States but living in a foreign country under competent orders; U.S. citizen dependents of Armed Forces military and civilian personnel; U.S. Government employees residing with their spouses in a foreign country; U.S. citizens present in, but not inhabitants of, a foreign country, including tourists, contractor employees, and their dependents; Foreign military personnel; If claim is for death or personal injury arising out of a joint mission with the United States and caused by act or omission of a member or employee of U.S. Air Force engaged in scope of employment; An insurer or other subrogee (see Note 2).

Subpart E—Foreign Claims (10 U.S.C. 2734)

§ 842.50 Scope of subpart.

This subpart tells how to settle and pay claims against the United States presented by inhabitants of foreign countries for death, personal injury, or damage to or loss of property caused by military and civilian members of the U.S. Armed Forces in foreign countries.

employees" within the meaning of the Foreign Claims Act only when in the service of the United States. Ordinarily, a slight deviation as to time or place does not constitute a departure from the scope of employment. The deviation must be material. To determine status, consider local law or custom and the time, place, and purpose of the activity and whether it is for furtherance of the general interest of the Air Force and is usual for or reasonably to be expected of personnel of the grade and classification involved. Also consider whether the instrumentality from which the damage or injury resulted was owned or furnished by the Air Force.

(2) Immaterial when claim arises from acts or omissions of members or employees of the Air Force not covered by subparagraph (1) of this paragraph. The fact that the offender is a U.S. citizen or a non-U.S. citizen hired in another foreign country for employment in the country where the damage occurring to local law.

§ 842.53 Claims cognizable under this subpart.

Rule	A If a claim arising outside the United States, its territories, commonwealth, or possessions—	B Then it is—		C And it is—
		Cognizable under this subpart	Not cognizable under this subpart	
1	Arises from damage, loss, personal injury, or death caused by act or omission of Air Force military or civilian personnel or is otherwise incident to Air Force noncombat activities.	X		Payable
2	Is for damage to or loss of real property of any foreign country, its political subdivision, or inhabitant, including damage or loss incident to use and occupancy unless excluded by Rule 14.	X		Not payable
3	Is for damage to or loss of personal property of owners shown in Rule 2, including property bailed to the U.S.	X		Payable
4	Is based on personal injury or death of an inhabitant of a foreign country.	X		Payable
5	Is a nonappropriated fund claim.	X		Payable
6	Has been presented to authorities of a foreign country and settled under Article VIII of NATO Status of Forces Agreement, Article XVIII of Japanese Status of Forces Agreement, or similar treaty or agreement.	X		Payable
7	Is purely contractual in nature.	X		Payable
8	Is for court costs or reimbursement for a satisfied judgment against Air Force military or civilian personnel.	X		Payable
9	Arises from private contractual relationship between contract personnel and third parties about property leases, public utilities, hiring of domestic servants, and debts of any description.	X		Payable
10	Is based solely on compassionate grounds.	X		Payable

§ 842.52 Determining cognizability of a claim.

(a) *Causation.* Since the Foreign Claims Act provides an ex gratia remedy, it should be broadly construed in the light of its purpose. In view of its expressed intent to promote and maintain friendly relations with inhabitants of foreign countries by expeditious settlement of meritorious claims, the United States must accept responsibility for almost all damage caused by members and employees of its armed forces. Some applicable acts and omissions are those

which are criminal, negligent, willful, wrongful, and mere mistakes of judgment. Cause and merit are the primary criteria in determining applicability of the Act. Proof of fault is required only to the extent necessary to show that the claim is meritorious.

(b) *Scope of employment.* Scope of employment is:

(1) A prerequisite to a finding of U.S. responsibility and payment of a claim if the employee concerned is an indigenous person, a prisoner of war, or an interned enemy alien. These persons are "em-

ployees" within the meaning of the Foreign Claims Act only when in the service of the United States. Ordinarily, a slight deviation as to time or place does not constitute a departure from the scope of employment. The deviation must be material. To determine status, consider local law or custom and the time, place, and purpose of the activity and whether it is for furtherance of the general interest of the Air Force and is usual for or reasonably to be expected of personnel of the grade and classification involved. Also consider whether the instrumentality from which the damage or injury resulted was owned or furnished by the Air Force.

(2) Immaterial when claim arises from acts or omissions of members or employees of the Air Force not covered by subparagraph (1) of this paragraph. The fact that the offender is a U.S. citizen or a non-U.S. citizen hired in another foreign country for employment in the country where the damage occurring to local law.

§ 842.53 Claims cognizable under this subpart.

Rule	A If a claim arising outside the United States, its territories, commonwealth, or possessions—	B Then it is—		C And it is—
		Cognizable under this subpart	Not cognizable under this subpart	
1	Arises from damage, loss, personal injury, or death caused by act or omission of Air Force military or civilian personnel or is otherwise incident to Air Force noncombat activities.	X		Payable
2	Is for damage to or loss of real property of any foreign country, its political subdivision, or inhabitant, including damage or loss incident to use and occupancy unless excluded by Rule 14.	X		Not payable
3	Is for damage to or loss of personal property of owners shown in Rule 2, including property bailed to the U.S.	X		Payable
4	Is based on personal injury or death of an inhabitant of a foreign country.	X		Payable
5	Is a nonappropriated fund claim.	X		Payable
6	Has been presented to authorities of a foreign country and settled under Article VIII of NATO Status of Forces Agreement, Article XVIII of Japanese Status of Forces Agreement, or similar treaty or agreement.	X		Payable
7	Is purely contractual in nature.	X		Payable
8	Is for court costs or reimbursement for a satisfied judgment against Air Force military or civilian personnel.	X		Payable
9	Arises from private contractual relationship between contract personnel and third parties about property leases, public utilities, hiring of domestic servants, and debts of any description.	X		Payable
10	Is based solely on compassionate grounds.	X		Payable

NOTES: 1. A national (or national-controlled corporation) of a country engaged in war or armed conflict with the United States or its ally may be a proper claimant, if the foreign claims commission considering the claim or the local military commander determines that at the time of the incident the claimant was and is friendly to the United States.

2. An insurer or subrogee may, however, claim as agent for its principal. If it does, the claim must be presented in the name of the insured and settled solely with him without regard to insurance.

Rule	A If a claim arising outside the United States, its territories, commonwealth, or possessions—	B Then it is—		C And it is—	
		Cognizable under this subpart	Not cognizable under this subpart	Payable	Not payable
11	Is a bastardy claim.....	X			X
12	Is for patent or copyright infringement.....	X			X
13	Is waived under an international agreement.....	X			X
14	Is for rent, damage, or other payments involving regular acquisition, possession, and disposition of real property or interests therein by or for the Air Force.	X			X
15	Is presented by a communist country or its inhabitant...	X			X
16	Is for taking real property by trespass through flight of aircraft, when no actual physical damage resulted.	X			X
17	Is payable under Federal Employees' Compensation Act (5 U.S.C. 8101, et seq.), or the Longshoreman's and Harbor Workers' Compensation Act (33 U.S.C. 901, et seq.), or U.S. contract and costs or premiums are paid by the United States.	X			X
18	Results directly or indirectly from combat activities.....		X		
19	Is presented during a period when settlements are suspended by a commander during war or armed conflict.		X		
20	Is based on negligence of a concessionaire or other independent contractor.		X		
21	Arises out of activities of dependents of members and employees of the Air Force, their guests, servants, or pets, unless directly attributable to lack of control or supervision by an Air Force member or employee.		X		
22	Is presented while litigation, commenced by the claimant and arising from the same incident or accident, is pending against the United States or its employees.		X		

§ 842.54 Settlement authority.

(a) *Claims for more than \$15,000.* (1) If the Secretary of the Air Force considers the claim meritorious and it is cognizable under the Foreign Claims Act, he:

(i) Refers it to a foreign claims commission for settlement in an amount not over \$15,000, or

(ii) After receiving a settlement agreement in full satisfaction of the entire claim, certifies the claim to Congress.

(2) If the Secretary of the Air Force finds the claim without merit or not cognizable under the Foreign Claims Act, he disapproves it.

(b) *Claims for \$15,000 or less.* These claims may be settled by a three-member foreign claims commission.

(c) *Claims for \$1,000 or less.* Unless specifically limited in the appointing orders, a one-member foreign claims commission may settle claims presented for \$1,000 or less under this subpart.

Subpart F—International Agreement Claims (10 U.S.C. 2734a and 2734b)

§ 842.60 Scope of subpart.

This subpart governs Air Force actions in investigating and processing or settling certain claims under international agreements, and provides Air Force foreign-country-claim reimbursement and payment authority under the agreed pro rata sharing formulae and statutes.

§ 842.61 Types of claims agreements.

The United States has entered into various agreements to meet conditions in specific foreign states:

(a) *NATO Status of Forces Agreement (NATO SOFA).* (1) With formation of the North Atlantic Treaty Organization (NATO) in 1949 (T.I.A.S. 1964), the stationing of large military contingents of one member nation within the territory of another became common practice. Under this new peacetime collective security arrangement, current systems for processing third party claims were unacceptable. As a compromise between the receiving states' wish to exercise a greater degree of control over adjudication of third party claims and the sending states' reluctance to accept the receiving states' adjudication in toto, the NATO Status of Forces Agreement (NATO SOFA) was devised. Under Article VIII, receiving states settle and pay certain claims and judgments under its own laws and regulations and share with sending states the costs of the sums awarded in the pro rata amounts provided (4 U.S.T. 1792; T.I.A.S. 2846).

(2) Twelve countries signed the NATO SOFA in London on June 19, 1951. They were: Belgium, Canada, Denmark, France, Iceland, Italy, Luxembourg, The Netherlands, Norway, Portugal, United Kingdom, and the United States. Iceland executed the agreement but did not ratify it, executing instead a somewhat similar bilateral agreement with the United States (see 2 U.S.T. 1533, 1550; T.I.A.S. 2295). The United States ratified the NATO SOFA and it came into force on August 23, 1953 (4 U.S.T. 1792; T.I.A.S. 2846; attachment 4, AFM 110-3 (Civil Law)). Greece, Turkey, and the Federal Republic of Germany later became contracting parties by accession (Article XVIII).

(b) *Other SOFAs.* Different types of SOFAs are in effect between the United States and Australia, Iceland, Japan, Korea, and Taiwan. They include modifications and changes to the NATO formula and, when applicable, their provisions must be complied with, since some of them state that certain or all claims will be settled according to U.S. law.

(c) *Other bilateral agreements.* Some foreign countries not a party to SOFAs, such as the Democratic Republic of the Congo, the Dominican Republic, Ethiopia, India, Iran, Liberia, Libya, Mali, Nepal, Pakistan, the Philippines, Republic of Vietnam, Saudi Arabia, Spain, and Thailand have executed bilateral agreements with the United States that govern the settlement of claims caused by U.S. personnel within their borders.

§ 842.62 Government-to-government claims waiver agreements.

(a) Many peace treaties and agreements executed after World War II released the United States and other allied nations from responsibility for settling specific classes of claims and provided that other countries would assume the responsibility.

(b) In 1946 and 1947 the United States and the United Kingdom executed a mutual forbearance and sharing agreement. It provides for mutual waiver of certain types of government-to-government claims resulting from acts of armed forces or civilian personnel (61 Stat. 2876; T.I.A.S. 1622; 15 UNTS 281).

(c) Under the Department of State opinion that treaties and agreements remain in effect until they expire by their terms, are terminated by mutual agreement, or are replaced or superseded by other agreements, the Department of the Navy applies a 1946 waiver agreement between the United States and Canada to admiralty claims for damage caused by public vessels of the respective governments that otherwise would be payable under NATO SOFA (61 Stat. 2520; T.I.A.S. 1582; 7 UNTS 141).

§ 842.63 Territorial application (NATO).

Normally, this Agreement applies only to the metropolitan territory and to the central authorities and political subdivisions of contracting parties. The geographic boundaries are not delineated and the applicable area is not otherwise defined except in the NATO Treaty which pertains to Europe, North America, and the North Atlantic Ocean area (see paragraph 2, Article I; Article XX). Article XX permits a state to extend the Treaty to any or all of its territories in the North Atlantic Treaty area by issuing an instrument of ratification or accession, notifying the United States, or making special arrangements with each sending state concerned. The following extensions have been accomplished:

(a) The Department of State advised DoD on November 16, 1960, that Alaska is included in the North Atlantic Treaty area but that Hawaii is not.

(b) The United States and Denmark have agreed that Article VIII applies to Greenland.

(c) The United Kingdom has extended its application to the Isle of Man.

(d) Portugal specified that the agreement only applies to the territory of Continental Portugal and excludes the "Adjacent Islands and Overseas Provinces."

(e) DoD has authorized the U.S. Department of the Navy to settle Navy non-scope claims under §200 that arise in foreign ports visited by U.S. forces afloat, and, subject to concurrence of the authorities of the receiving state concerned, to process such claims without regard to paragraph 6 of Article VIII.

§ 842.64 Effect of NATO SOFA and other SOF agreements on U.S. statutes.

Some U.S. agencies have held that NATO SOFA supersedes domestic U.S. law, when a claim is cognizable under both the Agreement (which has treaty status) and other U.S. law.

(a) The Bureau of Employees' Compensation, U.S. Department of Labor, requires a certificate showing that the claim is not cognizable under NATO before it will settle and pay a workman's compensation claim of a Canadian national employed in Canada by the United States (5 U.S.C. 751).

(b) When a claim cognizable under NATO SOFA or a similar agreement is presented to an Air Force authority, it will normally be referred to the foreign country concerned for appropriate action unless the claimant is a U.S. national and he specifically requests settlement under U.S. laws.

(c) When a claim has been settled or adjudicated by a receiving state under a SOF Agreement, it will not be settled or paid under any U.S. claims statute, since the matter is *res judicata*.

(d) If a U.S. national claimant withdraws his claim from consideration by a SOFA country and presents a timely claim to the Air Force which is cognizable under U.S. law, the claim will be processed under the applicable law without regard to the Agreement.

§ 842.65 Claims excluded (NATO).

(a) The following type of claims are excluded under NATO SOFA:

(1) War damage claims (specifically excluded from provisions of paragraphs 2 and 5, Article VIII, by Article XV).

(2) Admiralty property damage claims of third parties (specifically excluded by paragraph 5(h) of Article VIII). (Note, however, that certain government-to-government admiralty damage claims are covered by paragraphs 2 and 3, Article VIII).

(3) Contractual claims and claims covered by paragraphs 6 and 7 of Article

VIII (excluded by paragraph 5, Article VIII).

NOTE: Article VIII is not limited to claims arising from negligent or wrongful acts since a claim may be payable under the legally responsible provision. If a claim is not payable under paragraph 5 of Article VIII, it may be considered under paragraph 6 or 7 of the Article and settled under Subpart E, G, or M of this part (see § 842.64).

§ 842.66 Government-to-government claims (NATO).

(a) *Complete or minimum waivers and sharing provisions.* (1) Paragraph 1 of Article VIII completely waives all claims for damage to any property owned and used by a contracting party's armed services, if the damage was caused by the personnel or equipment of another contracting party in connection with the operation of the North Atlantic Treaty, or if the damaged property was being used in a NATO operation. For example, claims arising from aircraft damage to a military barracks by the armed services of another contracting party while on maneuvers would be waived completely.

(2) Paragraph 2 of Article VIII provides for a minimum-waiver or sharing of claims for damage to nonmilitary government property, and for damage to military property not arising under conditions of the paragraph, if the damaged property is owned by a contracting party. The minimum waiver provision applies only to claims when the damage is not more than the minimum amounts listed in paragraph 2(f) of Article VIII or the instrument of accession for the country concerned. No part of a claim for damage

§ 842.67 Processing NATO third party claims.

Rule	A If a claim arises—	B Then it will be—	C And—
1	From an act or omission of a member of a force or civilian component while performing official duty (see Note 1).	Settled or adjudicated by the receiving state under laws and regulations governing claims arising from activities of its own armed forces.	The receiving state pays any award or judgment subject to pro rata reimbursement by the sending state.
2	From any other act, omission or occurrence for which a force or civilian component is legally responsible (see Note 1).		
3	Out of a tortious unofficial act or omission by a member of a force or civilian component, or the unauthorized use of any military vehicle of the United States (see Note 2).	Considered by the receiving state, which submits to the sending state a report on the claim that includes recommendations on liability and amount of a fair and just award.	The sending state then determines whether an ex gratia award will be offered under its laws and in what amount (see Note 3).
4	Under rule 1, 2, or 3 and the U.S. vehicle or individual concerned is covered by a policy of liability insurance.	Referred to the insurer by either state.	The insurer settles and pays (see Note 4).

NOTES: 1. Except contractual claims and those to which paragraphs 6 and 7 of Article VIII apply.
2. Except when a force or civilian component is legally responsible under paragraph 5 of Article VIII (see paragraph 7).
3. If an award is made under Subpart E, G, or M of this part and accepted by the claimant in full satisfaction of the claim, payment will be made and the receiving state will be notified of the action taken.
4. If a nonscope claim is denied or not promptly paid, follow the procedure prescribed in Subpart E of this part for claims covered by insurance.

in excess of that amount will be waived under it. For example, paragraph 2(f) lists \$1,400 as the waiver amount for the United States. Therefore, if a U.S. Post Office building were damaged and the damage amounted to only \$1,400 or less, the claim would be waived. But if the damage were for \$5,000, no part of the claim would be waived, i.e., it would be asserted for \$5,000 not for \$3,600. However, the pro rata sharing formula applies to these claims (paragraphs 2(d) and 5(e), and paragraph 2(f)) includes a provision that authorizes the contracting parties to agree on appropriate adjustments of waiver amounts when rates of exchange between currencies vary widely. If the contracting parties cannot agree on liability and the amount of damage to assess, they will select a solo arbitrator, as provided in paragraph 2, Article VIII, to make the determination.

(b) *Property excluded.* Private property and property owned by political subdivisions of the central government of contracting parties is not property owned by a contracting party within the meaning of Article VIII (paragraph a, Article I). The claims of individuals, municipalities, cities, and villages will be handled as any other claim under paragraph 5, 6, or 7, instead of paragraph 1 or 2 of this Article.

(c) *Personal injury or death claims.* Paragraph 4 of Article VIII completely waives each contracting party's claims against any other contracting party for injury or death suffered by any member of its armed services while such member was engaged in the performance of official duties.

§ 842.68 Counterclaims (NATO).

(a) Under paragraph 5(a) of Article VIII, a receiving state is authorized to assert, adjudicate (litigate), or settle certain affirmative property damage claims on behalf of the United States.

(1) A foreign country may assert a claim on behalf of the United States only if it relates to a third party NATO claim arising from activities of U.S. military or civilian personnel.

(2) Paragraph 5(h), Article VIII, also excludes from this provision claims arising out of or in connection with the navigation or operation of a ship or with the loading, carriage, or discharge of a cargo (see Subpart H of this part).

(3) A receiving state may assert a counterclaim on behalf of the United States only if its laws and regulations permit a counterclaim in similar circumstances for its own armed services and do not require that the claim be assigned to it. However, the sending state office may authorize a receiving state office to take, in its own name, any legal action necessary to assert a claim and in particular, to assert the claim by set-off, counterclaim, or court action.

(b) The extent of a receiving state's obligation by treaty to present a counterclaim on behalf of the United States may depend on whether the particular coun-

§ 842.70 Processing international military headquarters third party claims.

Rule	A If a claim—	B Then it will be—	C And—
1	Arose out of an accident or incident involving a vehicle owned by SHAPE or other similar headquarters rather than on loan from an allied government.	Referred to the appropriate international headquarters, since it may be fully covered by liability insurance.	That headquarters will refer it to the insurance company.
2	Is for damage, injury, or death not covered by insurance or inadequately insured, or if liability denied.	Referred to the receiving state in the same manner as other NATO claims.	The sending state will reimburse the receiving state for the agreed pro rata share of any claim paid or adjudicated subject to later reimbursement by the headquarters concerned.
3	Involves a nonscope act or omission....	Processed under Subpart E or G of this part as appropriate.	
4	Involves a U.S. vehicle loaned to and used by another NATO country.	Referred for settlement to the country which caused the damage or injury.	

§ 842.71 U.S. sending state offices (SOFA).

U.S. sending state offices have been established to implement U.S. claims responsibilities under Article VIII of the NATO SOFA and other agreements of this type.

§ 842.72 International agreement claims payments.

(a) *Statutory implementing authority.* NATO SOFA and other SOF agreements are not self-executing; they require statutory implementation (see Act of Aug. 31, 1954, 68 Stat. 1006, as codified, 10 U.S.C. 2734a and 2734b; 2 U.S. Code Cong. & Ad. News 1954, p. 1186, 3570). The International Agreement Claims Act authorizes only the agreed pro rata reimbursement of, or payment to, a foreign country under certain international agreements for:

terclaim is discretionary or compulsory under its own laws governing counterclaims for its own armed forces. If a receiving state refuses to present a counterclaim on behalf of the United States in a proper case, the staff judge advocate, without further action, will report the refusal to AFJALD. Include with the report any explanation the receiving state gives for its refusal to process the counterclaim and a statement of its applicable law.

§ 842.69 International military headquarters.

(a) The Protocol, set up under the North Atlantic Treaty, defines the status of all headquarters and allied personnel stationed, assigned, or attached to SHAPE or its subordinate international military headquarters (5 U.S.T. 870; T.I.A.S. 2978). It is now effective in all NATO countries except Canada and the Federal Republic of Germany.

(b) Claims provisions of the Protocol are included in Articles IV and VI. They provide that scope claims generated by allied personnel attached to an international headquarters are the responsibility of the international headquarters rather than the country to which the personnel belong. Claims caused by U.S. personnel assigned to these headquarters will be processed as shown in § 842.70.

(1) *Foreign government claims.* The agreed pro rata share of foreign country property damage claims (§ 842.66).

(2) *Third party claims.* The agreed pro rata share of claims settled or adjudicated and paid by a foreign country, when the claim arose out of acts or omissions in the performance of official duty of civilian employees of armed forces or military personnel of the United States.

(i) The law limits reimbursement to claims arising out of "Official duties" and this has been interpreted as not including authority to reimburse a country for the cost of payment of some claims settled or adjudicated under the "legally responsible" provision of an agreement or in accordance with a local law which is not based on the doctrine of respondent superior.

(ii) Also excluded is payment based on "owners liability", "inherently dangerous activities", "absolute liability", or similar doctrines of statutory liability. If a bill for a claim in this category is presented, do not make reimbursement. Forward a report to AFJALD so that special funding arrangements can be made.

(3) *Arbitration fees and expenses.* The agreed pro rata share of foreign country costs under subparagraphs (1) and (2) of this paragraph.

(b) *Excluded claims.* (1) Combat claims: A claim arising out of the act of an enemy of the United States or arising, directly or indirectly, from an act of the armed forces, or an armed forces member, while engaged in combat may not be considered or paid under this law (see also Article XV, NATO SOFA).

(2) Administrative expenses incurred by the receiving state.

(3) U.S. Coast Guard claims: The Coast Guard is an armed force covered under NATO SOFA and other agreements of this type, but there is no specific statutory authority to reimburse a foreign country for U.S. Coast Guard claim settlements or adjudications under the agreements. Delete Coast Guard claims from bills and report them to AFJALD for referral to the Coast Guard for funding.

(4) Nonappropriate fund claims: Although these claims are covered under NATO SOFA and similar agreements, advance payment or later reimbursement will be obtained from the proper nonappropriated fund (Subpart M of this part).

(c) *Approving authorities.* (1) 10 U.S.C. 2734a and 2734b authorizes the Secretary of Defense to reimburse or pay foreign countries under international agreements for the agreed pro rata share of third party or foreign country damage claims. No monetary limitation on the amount payable is provided. The Secretary of Defense has delegated the authority to the secretaries of the military departments.

(2) The Secretary of the Air Force has redelegated his authority to:

- (i) The Judge Advocate General.
- (ii) The Assistant Judge Advocate General.
- (iii) Chief, Claims Division, Office of The Judge Advocate General.
- (iv) Assistant Chief, Claims Division, Office of The Judge Advocate General.
- (v) Staff Judge Advocate, U.S. Air Forces in Europe.
- (vi) Staff Judge Advocate, Pacific Air Forces.
- (vii) Chief, U.S. Armed Forces Claims Service, Japan.
- (viii) Staff Judge Advocate, First Air Force.

§ 842.73 U.S. receiving state office (SOFA).

(a) *U.S. responsibility.* (1) Under the provisions of reciprocal international agreements which contain claims settlement provisions such as Article VIII,

NATO SOFA, and other similar agreement, the United States is responsible for investigating accidents and incidents and processing claims that arise within the continental United States from acts or omissions of:

(i) Members of the forces or civilian components of other parties to applicable SOF Agreements. For example, NATO personnel stationed or assigned in the United States, or engaged in aircraft flights over the United States, as well as students, trainees, members, and employees of NATO countries on official duty in the United States in connection with military "sales agreements", have been determined to be covered by NATO SOFA. Third party claims arising out of their activities may be presented in the same manner as for U.S. personnel.

(ii) Military or civilian personnel assigned or attached to or employed by international military headquarters under the provisions of the Protocol on the status of international military headquarters (§ 842.69).

(b) *Location of U.S. receiving state office.* The U.S. Army Claims Service, Office of The Judge Advocate General, Fort Holabird, Md. 21219, is the U.S. receiving state office for claims cognizable under NATO SOFA and other reciprocal SOF Agreements. (Designated by the Department of the Army, under authority from the Secretary of Defense.)

(c) *Sending states.* These include Belgium, Canada, Denmark, Federal Republic of Germany, France, Greece, Italy, Luxembourg, Netherlands, Norway, Portugal, Turkey, and the United Kingdom.

§ 842.74 Claims procedure in the United States (SOFA).

(a) *Place of filing.* A third party claim should be presented to the commander of the U.S. military department installation nearest the place where the accident or incident occurred but it may be filed at any other installation. The claim and supporting documents must be filed in four copies and must otherwise conform to the regulations of the department of the installation where it is filed. Recommendations for the assertion of Air Force counterclaims or claims against the foreign government for damages to Air Force property will be forwarded through Air Force claims channels to the Chief, U.S. Army Claims Service, Fort Holabird, Md. 21219.

(b) *Official duty claims.* Pursuant to 10 U.S.C. 2734b, tort claims generated by sending state personnel while performing official duties are settled in the manner provided for claims generated by personnel of the armed forces of the United States, that is, under the Military Claims Act (10 U.S.C. 2733) or the Federal Tort Claims Act (28 U.S.C. 2671-2680). Scope of employment determinations are made by sending state officials. Payments made are subject to pro rata reimbursement by the sending state (par. 5, Art. VIII, NATO SOFA).

(c) *Ex gratia claims.* Tort claims arising from off-duty activities of sending state personnel are, after investigation, processing, and evaluation, referred by

Army authorities to sending state officials for a determination as to whether an ex gratia payment will be offered (par. 6, Art. VIII, NATO SOFA).

(d) *Settlement authority.* Each of the following Army authorities has been authorized to settle claims arising in the United States under NATO SOFA:

(1) The Chief, U.S. Army Claims Service.

(2) All officers of The Judge Advocate General's Corps assigned to U.S. Army Claims Service, subject to such limitations as the chief of that Service may prescribe.

(e) *Advance payment in aircraft or missile incidents.* The settlement authorities listed in paragraph (d) of this section may make advance payments pursuant to 10 U.S.C. 2736 in meritorious claims that arise in the United States, involve immediate hardship, and result from incidents involving an aircraft or missile within the category of claims covered by reciprocal agreements, including international military headquarters established under such agreements (see § 842.69).

§ 842.75 Lawsuit procedure in United States (SOFA).

The NATO SOFA and other reciprocal agreements of this type provide that claims will be filed, considered, and settled or adjudicated according to the receiving state's laws and regulations that apply to claims arising from the activities of its own armed forces. Adjudication here means action by a competent tribunal of the United States in which a claimant may seek recovery from the United States instead of the sending state.

§ 842.76 Japanese SOFA.

(a) On February 28, 1952, the United States and Japan executed an Administrative Agreement under Article III of the Security Treaty and the occupation was terminated. That agreement was replaced by the Japanese SOFA on June 23, 1960 (11 U.S.T. 1652; T.I.A.S. 4510). Article XVIII relates to claims. The Japanese SOFA is somewhat similar to NATO SOFA, but contains a number of substantial changes:

(1) The U.S. tort-feaser need merely be present in Japan, since the Agreement is not limited to personnel in the territory in connection with duties under the treaty and international agreement.

(2) "Civilian component" is more specifically defined, clearly designating the persons who are included and excluded. The definition includes the phrases "serving with" or "accompanying the armed forces," thereby helping eliminate disputes about status that are sometimes troublesome under the NATO SOFA.

(3) The dual nationality problem is in some measure met by a provision that dual nationals, United States and Japanese, who are brought to Japan by the United States are considered United States nationals for the purpose of the Agreement. The Agreement does not specify the status of civilian U.S. nationals employed by appropriated or non-

appropriated fund activities, hired locally, and ordinarily residents in the Japanese territory.

(4) Official duty determinations are made by the nation to which the tort-feaser belongs, but disputes over the validity of these determinations are resolved by submitting the issue to an arbitrator, as in the NATO SOFA.

(5) Paragraph 5(g), Article XVIII, excludes admiralty property damage claims from the liability provisions and procedures of subparagraphs 5(a) through 5(e) of the Article. Such claims are handled under general admiralty procedures if they arise either in Japanese territorial waters or on the high seas in the Japanese area. However, an interpretation of paragraph 5(g) has been negotiated to provide that subparagraphs (a) to (f) of paragraph 5 will apply to small maritime claims of the following types:

(i) Damage to cultivation of marine animals and plants in coastal waters;

(ii) Damage to fish nets;

(iii) Damage to boats of less than 20 tons, involving individual claims of \$2,500 or less;

(iv) Damage of similar nature that may be mutually agreed upon through the Joint Committee (Exchange of Notes of August 22, 1960, 11 U.S.T. 2160; T.I.A.S. 4580). On September 7, 1961, the Joint Committee mutually agreed to include the following claims:

(a) Damages to cargoes of boats less than 20 tons when individual claims are for \$2,500 or less: *Provided*, That when a claimant owns both a boat and its cargo, the claim for the two will be treated as one claim.

(b) Damages to lobster pots, octopus pots, long-lines, oyster baskets, fish traps and shelters, and similar equipment used by fishermen to catch fish, lobster, octopus, and other marine life.

(6) A system of Agreed Views of the Joint Committee under Article XXV of JSOFA has been implemented to resolve questions of interpretation. For example, a "third party" within the meaning of paragraph 5, Article XVIII, is interpreted by an Agreed View as including anyone in Japan other than members or employees of the United States or United Nations armed forces, or their dependents.

Subpart G—Claims Incident to the Use of Government Property Not Cognizable Under Any Other Law (10 U.S.C. 2737)

§ 842.80 Scope of subpart.

This subpart governs administrative processing, settling, and paying of claims against the United States, for damage to or loss of property or for personal injury or death, incident to the use of Government property by Air Force military or civilian personnel that are not cognizable under any other law.

§ 842.81 Settling claims under this subpart.

If any person has suffered damage to real or personal property, personal injury, or death, and its proximate cause

was an act or omission of Air Force military or civilian personnel, regardless of whether within their scope of employment, and the act or omission was incident to the use of a vehicle of the United States at any place or use of other Government property on a Government installation and a claim is not cognizable under any other provision of law, then he or his representative may present a claim under this subpart (see § 842.82) provided it is presented within 2 years of the occurrence of the act or omission that caused the damage or injury and the amount awarded does not exceed \$1,000.

§ 842.82 Claims and damages not payable.

The following types of claims and elements of damage are excluded:

(a) A claim cognizable under any other provision of law.

(b) A claim for punitive or general damages in personal injury or death cases. Awards are limited to the cost of reasonable medical, hospital, and burial expenses actually incurred.

(c) A claim for medical, hospital, or burial services furnished or paid by the United States.

(d) A claim for property damage, personal injury, or death caused wholly or partly by the negligent or wrongful act of the claimant, his agent, or his employee.

(e) Subrogated claims.

(f) A claim or any part thereof, the amount of which is legally recoverable by the claimant under an indemnifying law or indemnity contract.

(g) Attorney fees—no effort will be made to fix such a fee in connection with the settlement of a claim.

(h) Combat damage claims.

§ 842.83 Settlement authority.

A settlement agreement in full satisfaction of the claim is required before any payment is made.

(a) Claims for more than \$1,000 may, be considered but cannot be administratively approved or paid in excess of that amount.

(b) The Secretary of the Air Force has delegated authority to settle and pay any claims under this subpart to the following persons:

(1) *Claims payable for \$1,000 or less.*

(i) Within Hq USAF:

(a) The Judge Advocate General.

(b) The Assistant Judge Advocate General.

(c) Chief, Claims Division.

(d) Assistant Chief, Claims Division.

(ii) Staff Judge advocates of:

(a) Air Force Logistics Command.

(b) Ogden Air Materiel Area.

(c) Sacramento Air Materiel Area.

(d) Oklahoma City Air Materiel Area.

(e) San Antonio Air Materiel Area.

(f) Warner Robins Air Materiel Area.

(g) Alaskan Air Command.

(h) USAF Southern Command.

(i) Pacific Air Forces.

(j) U.S. Air Forces in Europe.

(k) Wright-Patterson Air Force Base.

(iii) Director of Claims, U.S. Air Forces in Europe.

(iv) Chief, Claims Division, Pacific Air Forces.

(v) Air Force Foreign Claims Commissions.

(2) *Claims payable for \$500 or less.* The staff judge advocate of each Air Force base, station, or fixed installation.

Subpart H—Admiralty Claims (10 U.S.C. 9801-9804 and 9806)

§ 842.90 Scope of subpart.

This subpart tells how to settle, pay, and compromise claims for or against the United States that arise from marine accidents or incidents and are not the subject of pending litigation.

§ 842.91 Authority, waiver, and time limitation for admiralty claims.

(a) *Statutory authority*—(1) *Air Force.* 10 U.S.C. 9801-9804 and 9806 (authorizes administrative settlement, payment, and compromise of claims within its provisions; supplements 28 U.S.C. 1346, 2401, and 2402 and 46 U.S.C. 741-799 under which suits in admiralty may be brought against the United States).

(2) *Army.* 10 U.S.C. 4801-4804, and 4806.

(3) *Navy.* 10 U.S.C. 7365, 7621-7623, and 7625.

(b) *Waiver of interdepartmental claims.* The following procedure applies unless claim is payable by commercial underwriters. The interdepartmental waiver is predicated on the doctrine that property belonging to the Government is not owned by any department of the Government. The Government does not reimburse itself for the loss of its own property, with the following exceptions:

(1) Post Office Department claims.

(2) GSA vehicle damage claims.

(Maritime Administration vessels operating under a bareboat charter and Navy vessel chartered to commercial operators are covered by protection and indemnity (P&I) insurance; Government vessels operating under a general agency agreement, by \$1,000 deductible P&I insurance for damage to Air Force shore structures only.) Do not make waiver determination in field; forward file to AFJALD.

(c) *Statute of limitations.* Claims against United States must be approved for settlement by Secretary of the Air Force or his designee and accepted by claimant within 2 years from date cause of action originated; thereafter no authority for administrative settlement exists. (When claims office receives notice of intention to file, it must advise the claimant or potential claimant of comprehensive application of this time limit.)

§ 842.92 Payable and nonpayable claims.

Rule	A If claim is for—	B Then it is—	
		Payable	Not payable
1	Property damage caused by a vessel of or in service of the Department of the Air Force (see Note 1).	X	
2	Personal injury or death of persons, including stevedores, not attached to the damaging Air Force vessel (see Note 2).	X	
3	Salvage rendered to vessels of or in service of the Air Force.	X	
4	Damage to or loss or destruction of property resulting from enemy action or directly or indirectly from an act of U.S. Armed Forces engaged in combat or in immediate preparation for impending combat.		X
5	Personal injury or death of U.S. Armed Forces members incurred incident to their service.		X
6	Personal injury or death of civilian employees of the United States to whom the Federal Employees' Compensation Act of September 7, 1916 (5 U.S.C. 8101, et seq.) applies.		X
7	Damage or injury that is the subject of a suit or pending litigation to which the United States is a party.		X
8	Damage or injury cognizable under a status of forces agreement, such as NATO SOFA.		X

Notes: 1. "Vessel" includes every description of water craft or other artificial contrivance used or capable of being used as a means of water transportation. Air Force parallel's Government liability under the Suits in Admiralty Act (46 U.S.C. 741) and the Public Vessels Act (45 U.S.C. 731). Property damage has been construed to include, among other things, swell damage, damage to fish nets and lobster pots, and cargo damage. 46 U.S.C. 743 extends admiralty jurisdiction to damage caused by a vessel to a land structure (such as a dock or pier).

2. There are also subject to suit under the Public Vessels Act.

§ 842.93 Salvage claims.

(a) Salvage claims are limited to those for salvage services rendered to vessels of, or in the service of, the Air Force. Although claims based on salvage service rendered to cargo are not payable under this subpart, they should be investigated and forwarded to AFJALD.

(b) Usually the following elements must exist to constitute a valid salvage claim.

(1) A marine peril, not occasioned by the salvor, to a vessel or her cargo.

(2) Services of the salvor must be voluntary and not rendered in pursuance

of any duty owed to the owner or to the property.

(3) The property or some portion of it must have been saved from the impending peril, or the service rendered must have contributed to such success.

(c) The amount of salvage to be awarded cannot be reduced to precise values, but depends on consideration of all the circumstances of each case. In many instances, so-called salvage efforts amount only to a towing service.

(d) A salvage contract is an agreement containing the conditions by which a vessel in distress accepts the proposed services of a salvor in return for remuneration. These agreements usually are made on the "no cure, no pay" basis. The amount of remuneration in event of success is definitely fixed, usually with a provision for arbitration of differences.

§ 842.94 Assertable claims.

A claim is assertable if it is:

(a) Within the admiralty jurisdiction of a Federal District Court of the United States.

(b) For damage caused by a vessel or floating object to property under the jurisdiction of the Department of the Air Force or to property for which the Department has assumed an obligation to claim for damages.

(c) For towage or salvage services performed by the Department of the Air Force. Customarily, claims for salvage services are limited to operational costs. These costs include such expenses as the per diem charge for use of the Air Force vessels involved and loss of or damage to equipment and labor costs.

Subpart I—Claims Under the Federal Tort Claims Act (28 U.S.C. 2671–2680)

§ 842.100 Scope of subpart.

This subpart governs administrative settlement and payment of claims against the United States (except those that arise in a foreign country) for damage to or loss of property, or for personal injury or death resulting from the negligent act or omission of Air Force military or civilian personnel while acting within the scope of their employment.

§ 842.101 General provisions.

(a) The Federal Tort Claims Act limited the scope of the Military Claims Act (now 10 U.S.C. 2733; see Subpart D of this part). Before the Federal Tort Claims Act became law, the Military Claims Act was the remedy for claims caused by acts or omissions of members or employees of the armed forces engaged in the scope of their employment, as well as for those otherwise incident to noncombat activities of the armed forces, both in and outside the United States. Now act-or-omission claims within the United States are settled under the Military Claims Act only if they are not cognizable under the Federal Tort Claims Act.

(b) Amendments to the Federal Tort Claims Act and related legislation have barred claims for punitive damages even

though permitted by law of the situs; made the Public Vessels Act and Suits in Admiralty Act exclusive authorities for maritime suits; extended the Statute of Limitations to 2 years; made the Federal Employees' Compensation Act the exclusive remedy for death or injury of a Federal employee in the performance of official duty; and increased the monetary jurisdiction for administrative settlement from \$1,000 to \$2,500. For claims which accrue on or after January 18, 1967, there is no monetary limit on administrative settlement; however, an award, compromise, or settlement in excess of \$25,000 can be made only with the prior written approval of the Attorney General or his designee (Public Law

89-506, 80 Stat. 304, July 18, 1966). The last amendment further requires filing of an administrative claim as a prerequisite to suit.

§ 842.102 Proper claimants under the Federal Tort Claims Act.

There is no specific reference to claimants in the Act. However, the broad sweep of the statute in imposing the liability of a private person upon the United States, and the fact that Congress enacted the legislation to relieve itself of the burden of considering private claims, demonstrates an intent to entertain the claim of anyone injured by the negligence of an Air Force member or employee.

Rule	A If injured person is—	B And—	C Then he is—	
			A proper claimant	Not a proper claimant
1	Anyone.....	Damage was caused under such circumstances that the United States if a private person, would be liable.	X	
2	A military member....	Damage was caused by negligence of another service member and was not incident to service (see Note 1).	X	
3	A military member....	Damage, injury, or death suffered was incident to service (see Note 1).		X
4	A dependent of a military member.	Claim is otherwise payable.....	X	
5	A subrogee of a proper claimant.		X (see Note 2)	
6	A U.S. civilian employee.	His claim is cognizable under statutes designated by law as exclusive remedies, such as workmen's compensation laws.		X

NOTES: 1. Whether damage is incident to service is not determined alone by whether serviceman was on or off the military reservation, on pass, furlough, or leave, although these factors have a bearing; determination ultimately depends on whether his actions at the time of damage were "in the course of activity incident to service." Ordinarily the Military Personnel Claims Act is the proper remedy of a serviceman for any incident-to-service property damage; compensation for injury and death is provided for by a statutory scheme not depending on fault for payment. (Preferred Insurance Co. v. United States, 222 F. 2d 642 (8th Cir. cert. den., 350 U.S. 837 (1955)).

2. If claim has been wholly compensated by insurance, settlement will be with subrogated insurer alone. If there is only partial subrogation, the insurer may present joint or separate claims, but, except for claims accruing after Jan. 18, 1967, the total amount of both claims may not exceed \$2,500.

§ 842.103 Cognizable claims.

To be cognizable under the Federal Tort Claims Act, a claim must be for damage proximately caused by negligent or wrongful acts or omissions of military or civilian personnel. The persons who caused the damage must have been acting within the scope of their employment and damage must have occurred under circumstances that would make the United States, if a private citizen, liable to the claimant under local law.

(a) Who is included in term "employees" for purposes of Federal Tort Claims Act. "Employees" includes officers and employees of all Federal agencies, members of U.S. military and naval forces, and persons acting in an official capacity for a Federal agency, whether temporarily or permanently in the service of the United States with or without compensation (Storer Broadcasting Co. v. United States, 251 F. 2d 268 (5th Cir. 1958) cert. den. 78 Supp. Ct. 916). It includes CAP members when CAP is acting under Air Force direction, and military officers and enlisted men assigned to duty with AFROTC units, but ordinarily not ANG members and employees (32 U.S.C. 715, Sept. 13, 1960,

applies to damage, death, or injury caused by these personnel while engaged in training or duty under 32 U.S.C. 316, 502-505 or 709), or independent contractors (Hopson v. United States, 136 F. Supp. 804 D.C. (W.D. Ark. 1956)). See Subpart M of this part concerning non-appropriated fund employees.

(b) Determining scope of employment. Department of Air Force military and civilian personnel are liable under this subpart only for their acts or omissions while performing within the scope of their employment. For this purpose, the limited "line of duty" set forth in the Federal Tort Claims Act and "scope of employment" are synonymous under the principle of the doctrine of respondent superior.

(c) Proximate cause. The proximate cause is the immediate or motivating cause, involving a natural and continuous sequence unbroken by an effective intervening cause. All questions of proximate cause, including questions pertaining to joint tort-feasors, are determined according to local law.

(d) Basis and extent of liability. (1) Apply the law of the place where the act or omission occurred to questions of con-

tributory or comparative negligence and joint tort-feasors liability. When there is a conflict between local law and an express provision of the Federal Tort Claims Act, the Act governs.

(2) If local law applies the doctrine of comparative negligence, damages may be apportioned commensurate with fault in the same manner as in suits against private individuals. Thus, it is important that a claims officer have a working knowledge of local law, especially in the fields of dangerous instrumentality, assumption of risk, res ipsa loquitor, measure of damages, last clear chance, discovered peril, and comparative and contributory negligence.

§ 842.104 Claims not cognizable under this subpart.

Rule	A If claim arises—	B And—	C Then it is not cognizable
1	For any cause that is otherwise cognizable under this subpart.		X
2	From act or omission of military or civilian personnel excluding due care in executing a statute or directive.	Is presented for more than \$2,000 including all interests, subrogated and principal, and accrues before Jan. 8, 1967.	X
3	From the exercise or performance of, or failure to exercise or perform, a discretionary function or duty by a Federal agency or a Government employee.	Regardless of whether the statute or directive was valid.	X
4	Out of lack, misfeasance, or negligent transmission of letters or postal matters.	Regardless of whether the discretion involved is abused.	X
5	In connection with assessment or collection of any tax or customs duty or detention of any goods or merchandise by any customs or excise officer or other law enforcement officer.		X
6	From admiralty causes for which a remedy is provided by 46 U.S.C. 741-752.		X
7	An act or omission of any Government employee in administering the Trading With the Enemy Act (50 U.S.C. App 1-31).		X
8	From damages caused by imposing or establishing a U.S. quarantine.		X
9	Willful torts, assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, neglect, or intentional misrepresentation, deceit, or interference with contract rights.		X
10	From combat activities of military forces.		X
11	During periods of national emergency (see Note 1).		X
12	From a flood (see Note 2).		X
13	From the inherent risk in a given activity.		X

The individual has accepted that risk by signing a "covenant not to sue" or any other release effective under local law (see Note 3).

Rule	A If claim arises—	B And—	C Then it is not cognizable
14	When the Government takes an easement in air space over land.	The flight of military aircraft over the land impairs its value for residential purposes (see Note 4).	X
15	From damage to property of U.S. Government departments or agencies.		X
16	In a foreign country.		X

NOTES: 1. The Federal Civil Defense Act of 1961 (50 U.S.C. App 2204) states: "The Federal Government shall not be liable for any damage to property or for any death or personal injury occurring directly or indirectly as a result of the exercise or performance of, or failure to exercise or perform, a discretionary function or duty by any Federal agency or employee of the Government, in carrying out the provisions of this Act during the period of (a) emergency, * * * (b) national emergency, * * * (c) war, or (d) when the United States is under actual attack or an attack is anticipated." 2. 33 U.S.C. 702(c) provides that "no liability of any kind shall attach to or rest upon the United States for any damages from floods or from any flood control project." It has been held that this statutory exception was not repealed by enactment of the Federal Tort Claims Act and is still in full force and effect. (National Manufacturing Company v. United States, 210 F.2d 263, cert. den., 337 U.S. 967; Villarreal v. United States, 177 F. Supp. 870 (D.C., Tex. 1959)). 3. An instrument of this type is a defense to a charge of ordinary negligence; however, it will not release the Government from liability for willful, wanton, or gross negligence. (Friedman v. Lockheed Aircraft Corporation, 133 F. Supp. 639 (D.C., N.Y. 1955)). 4. In the case of Highland Park, Inc. v. United States, 161 F. Supp. 697 (Ct. Cl. 1958) and Freeman v. United States, 167 F. Supp. 641 (D.C. Okla. 1958) the Court of Claims, under the Tucker Act (28 U.S.C. 1346(a)(2)), established the rule that the Government is liable for just compensation for taking the easement and the resulting damage to the remainder of the property. Nevertheless, established Department of Defense policy is that such claims will not be administratively processed under any statute or directive, and will be returned to the claimant with a statement that the claim is not administratively cognizable.

§ 842.105 Damages payable and not payable.

Rule	A If damage is—	B Then damage is—
		Payable Not payable
1	Personal injury or death or pain and suffering preceding death (see Note).	X
2	To property.	X
3	Punitive damage, even though State law permits such an award against a private individual.	X
4	Reimbursement for medical or hospital services furnished at expense of the U.S. Government.	X
5	Reimbursement for burial expenses paid by the U.S. Government.	X

NOTE: Proceeds from private insurance policies should not be taken into consideration in computing damages, but compensation and benefits from the Veterans Administration or monetary value received from any U.S. Government-owned source, are deductible from any payment except that sick and annual leave payments are deductible only when in accord with local law.

§ 842.106 Statute of limitations.

(a) Presenting claim. A claim must be presented in writing within 2 years after it accrues.

(1) A claim is considered to have been presented when the Air Force receives an executed SF 95 or written notification of an incident, together with a claim for money damage, in a sum certain, for property loss or damage, personal injury or death from a claimant, his duly authorized agent, or his legal representative.

(2) The times of claim accrual is governed by Federal, not State law. A claim accrues at the time the claimant discovers, or in the exercise of reasonable diligence should have discovered, the existence of the act which resulted in the damage for which the claim is made. (Hungerford v. United States, 307 F.2d 99 (8th Cir. 1963).)

(3) In computing time to determine whether the period of limitation has expired, exclude the first day and include the last day.

(b) Filing suit. If an administrative claim for \$2,500 or less accruing prior to January 18, 1967, has been presented within 2 years after the claim accrued,

a suit may be filed in a U.S. District Court anytime within six months after either notice of the final disposition of the claim is mailed to the claimant or the claim is withdrawn by the claimant, whichever is later. For actions accruing subsequent to January 18, 1967, claimants are required to file administrative claims before they may sue. Suit may be brought after the claim has been finally denied and the claimant notified in writing, or if the Air Force has not disposed of the claim within 6 months after it is filed. The claimant may consider partial approval as a denial. This requirement will not apply to third party complaints, cross-claims, or counterclaims.

(c) *Presenting a reduced claim.* If a claim for more than \$2,500 is presented within 2 years after it accrues, the time limit may not be extended to permit re-submission in an amount of \$2,500 or less. The reduced claim also must be presented within 2 years after the claim accrues. This provision does not apply to claims accruing subsequent to January 18, 1967.

§ 842.107 Government's right of indemnity.

The United States after being subjected to liability under the Federal Tort Claims Act, cannot sue its negligent employee for indemnification. However, if the Government employee whose negligence gives rise to an action against the United States is insured under a policy that includes as an insured anyone who is held responsible for an accident of the policy holder, the United States should assert a claim against the insurance company.

§ 842.108 Suits against individuals.

Under general legal theory, a plaintiff may sue either the master or the servant for damage which arises from an act or omission of a servant engaged in the scope of his employment. The Federal Tort Claims Act, however, has been made the exclusive legal remedy for claims that arise from the operation of any motor vehicle by any employee of the Government within the scope of employment. If a member or employee is sued in a State court in his individual capacity, the Attorney General of the United States defends the suit. He may either have it removed to a Federal Court or settle or compromise it in the same manner as other claims under the Federal Tort Claims Act.

§ 842.109 Attorneys' fees.

The approving authority may determine and allow reasonable attorneys' fees, but only if the claimant or his attorney asks him to do so, in writing, before the award is made. If the award is for \$500 or more, the fees may not exceed 10 percent of it (i.e., attorney fees are not an element of damage). Fees will be paid to the claimant's attorney out of the award, not in addition to it. For claims accruing on and after January 18, 1967, attorney fees may not exceed 20 percent of the award; however, the Air Force has no authority to fix the amount.

§ 842.110 Alternative remedies available to claimants.

(a) For action arising before January 18, 1967, the claimant may present a demand not in excess of \$2,500 under the Federal Tort Claims Act either administratively or by suit. However, if he has filed a claim, he may not begin a suit until the Air Force has finally adjudicated the claim or he has given 15 days' notice in writing that he has withdrawn his claim. When he does bring suit after filing a claim with the Federal Government, the suit may not be for a larger amount than the claim unless he presents proof of:

(1) Newly discovered evidence not reasonably discoverable when the claim was filed; or

(2) Intervening facts that relate to the amount of the claim.

(b) For actions accruing on or after January 18, 1967, an administrative claim must be presented before suit (see § 842.106(b)).

§ 842.111 Settlement authority.

(a) *Claim accruing on or after January 18, 1967, presented in any amount.*

(1) The Judge Advocate General.
(2) The Assistant Judge Advocate General.

(3) Director of Civil Law.

(4) Chief, Claims Division.

(5) Assistant Chief, Claims Division.

(b) *Claims accruing on or after January 18, 1967. Payable in amounts not in excess of \$10,000. Staff Judge Advocate, Air Force Logistics Command.*

(c) *Claims accruing on or after January 18, 1967, payable in amounts not in excess of \$5,000. Staff Judge Advocates of:*

(1) Alaskan Air Command.

(2) USAF Southern Command.

(3) Pacific Air Forces.

(4) Chief, Claims Division, Pacific Air Forces.

§ 842.121 Assertable and nonassertable claims.

Rule	A If claim is—	B And—	C Then it is—	
			Assertable	Not assertable
1	A tort claim for damage to or loss of Government property (see Note 1).	Resulted from a negligent act or omission, and is for more than \$100.	X	
2		Is less than \$100 but collection cost would be minimal.	X	
3	Against nonappropriated funds (see Note 2).			X
4	Against a foreign government.....	Is not specifically authorized by AFJALD.		X
5	Assertable under a contract.....	An Air Force contracting officer has determined that either settlement cannot be made under the contract or that such settlement would be too expensive (see Note 3).	X	
6	Assertable under nonappropriated funds regulations.			X
7	Cognizable under report of survey proceedings (see Note 4).			X
8	For reimbursement for damage arising from negligence of military or civilian personnel acting within scope of their employment.	The United States has paid a third-party claim based on the negligence.		X

See footnotes at end of table.

(5) Staff Judge Advocates of:

(i) Ogden Air Materiel Area.

(ii) Oklahoma City Air Materiel Area.

(iii) Sacramento Air Materiel Area.

(iv) San Antonio Air Materiel Area.

(v) Warner Robins Air Materiel Area.

(vi) Wright-Patterson Air Force Base.

(d) *Claims accruing before January 18, 1967, presented for more than \$2,500.* Such claims cannot be administratively considered (see § 842.104).

(e) *Claims accruing before January 18, 1967, presented for \$2,500 or less.*
(1) Within HQ USAF:

(i) The Judge Advocate General.

(ii) The Assistant Judge Advocate General.

(iii) Chief, Claims Division.

(iv) Assistant Chief, Claims Division.

(2) Staff judge advocates of:

(i) Air Force Logistics Command.

(ii) Ogden Air Materiel Area.

(iii) Oklahoma City Air Materiel Area.

(iv) Sacramento Air Materiel Area.

(v) San Antonio Air Materiel Area.

(vi) Warner Robins Air Materiel Area.

(vii) Alaskan Air Command.

(viii) USAF Southern Command.

(ix) Pacific Air Forces.

(x) Wright-Patterson Air Force Base.

(f) *Claims presented for \$500 or less.* The staff judge advocate of each Air Force base, station, and fixed installation may settle claims presented for \$500 or less.

Subpart J—Property Damage Tort Claims in Favor of the United States (31 U.S.C. 71, 951-953)

§ 842.120 Scope of subpart.

This subpart governs administrative determination, assertion, and collection of claims for damage to, or loss or destruction of, Government property through a negligent act or omission.

Rule	A If claim is—	B And—	C Then it is—	
			Assert- able	Not assert- able
9	For property damage arising from same incident that caused a hospital recovery claim.	The two claims are consolidated and processed under Subpart L of this part (see Note 5).	X	
10	Assertable as a counterclaim under an international agreement.		X	

NOTES: 1. Assert claim when evidence indicates a third party not having command, supervisory, or custodial responsibility for Government property may be liable in tort, even though are part of survey to determine property accounting responsibility has been processed.
2. The interdepartmental waiver applies to claims against and in favor of these Federal activities.
3. If a contracting officer refuses to assert a claim on the grounds that it is not a contract claim, forward the file through claims channels to AFJALD.
4. Reports of survey relate only to property accounting responsibility (pecuniary liability) and collection of any charges raised against individuals with command, supervisory, or custodial responsibility.
5. Investigate the property damage portion under this subpart.

§ 842.122 Statute of limitations.

Tort claims asserted by the Government will be barred if suit is not filed within 3 years from the date the cause of action accrues (28 U.S.C. 2415-2416). Therefore, such claims must be processed expeditiously.

§ 842.123 Counterclaims.

When it is apparent to an approving authority that a debtor or his insurer has presented a claim to the Government which arises out of the same incident that gives rise to the claim against the debtor, process both claims together.

Subpart K—Air National Guard Claims (32 U.S.C. 715)

§ 842.130 Scope of subpart.

This subpart governs administrative settlement of claims for damage to or

§ 842.132 Claims and claimants.

Claims		Claimants	
A Cognizable	B Not payable	C Proper	D Excluded
Claims caused by military or civilian personnel acting within scope of their employment under 32 U.S.C. 316, 502-505, 709, or 37 U.S.C. 301; Claims incident to ANG noncombat activities under provisions of U.S. laws; ANG claims similar to those described as payable in § 842.46.	Claims shown as nonpayable in § 842.46.	Any person (or his agent or legal representative) who suffers personal injury or death, or damage to or loss of real property (including that incident to occupancy or use) or personal property (including that bailed to the United States or ANG and registered or insured mail damaged, lost, or destroyed by a criminal act while in possession of ANG). Subrogees. States and their agencies and political subdivisions (except the State maintaining the offending ANG unit).	Members and employees of United States Armed Forces, including ANG military and civilian employees under 32 U.S.C. 709 who suffer personal injury or death incident to service. ANG members who sustain personal property loss or damage while engaged in inactive duty training under Federal law (but see column B, section 842.21). Those whose claims are cognizable under another subpart of this part. U.S. Government agencies and departments. A State to which an offending ANG unit belongs. A national or a corporation controlled by a national of a country at war or engaged in armed conflict with the United States or of any country allied with such enemy country unless the settlement authority determines that the claimant is, and at the time of incident was, friendly to the United States.

Subpart L—Hospital Recovery Claims (42 U.S.C. 2651-3)

§ 842.140 Scope of subpart.

This subpart tells how to recover from tortiously liable third parties the cost of hospital and medical care and treatment furnished by the Air Force.

§ 842.141 Assertable claims.

A claim is assertable when:
(a) It is based on injury or disease that occurred after January 1, 1963, under circumstances creating tort liability for payment of damage upon a third person;

(b) The Air Force furnishes, will furnish, or is responsible for medical care;

(c) And at least one of the following conditions exist:

(1) The total value of medical care furnished to all injured parties from a Federal source, a non-Federal source, or a combination of such sources, is \$100 or more.

(2) A third party, his insurer, or other representative offers payment and requests a release from the United States as a condition precedent to payment of other damages to the injured party.

(3) A property damage tort claim will be asserted as provided in § 842.121, Rule 9.

(4) Liability is clear and investigation and collection efforts will be minimal. When neither the provisions of subparagraph (1), (2), nor (3) of this paragraph exist, this condition is applicable at discretion of the base staff judge advocate.

§ 842.142 Nonassertable claims.

A claim is not assertable if it is:

(a) For medical care furnished to a veteran, by the Veterans Administration, under 38 U.S.C. 601-643 for a service-connected disability. However, if the injured party is an Air Force member who is later discharged and transferred to a Veterans Administration facility, the claim may be asserted only for the reasonable value of medical care up to the date of his discharge.

(b) Against an employer of a seaman treated under 42 U.S.C. 249.

(c) For injury resulting from torts of contractors performing work for the Government when the United States is contractually obligated to defend the contractor for such claims arising in connection with performance of the contract. Before making demand on a contractor for hospital and medical expenses, the staff judge advocate should, in all instances, be certain that no such contractual obligation exists. Asserting a claim under such conditions would place the Air Force in a untenable position should the injured party elect to sue the contractor.

§ 842.143 Action on medical report.

If third party liability is apparent or may be present, the base staff judge ad-

vocate will promptly contact, in person or by correspondence, the injured party or, when appropriate, his guardian, personal representative, estate, dependents, or survivors, and advise in writing that:

(a) Under 42 U.S.C. 2651-3, the United States is entitled to recover from the third party responsible for the injuries or disease the reasonable value of medical care furnished or to be furnished by the United States.

(b) He is required to:

(1) Furnish any information requested about the circumstances that caused the injury or disease and any action instituted or to be instituted by or against the third party.

(2) Notify the base staff judge advocate of any settlement offer from the third party, his insurer, or other representative.

(3) Cooperate in prosecuting all claims and actions by the United States against the third party.

(c) He should seek the advice of legal counsel concerning any possible claim he may have for personal injury or disease and furnish the base staff judge advocate the name and address of any civilian attorney he consults.

(d) He should not execute a release or settle any claim for the injury or disease nor furnish the third party or the insurance company or other representative of the third party any information or signed statement without first notifying the base staff judge advocate and his own attorney.

§ 842.144 Waivers for undue hardship.

(a) A hardship waiver must be based on proved actual, not imaginary, hardship. There must be a finding that the reasonable value of the injured party's claim for permanent injuries, pain and suffering, decreased earning power, and other items of special damage would not be satisfied if the full amount of the Government's claim were collected. Ordinarily, this determination requires a knowledge of the amount available to settle the claims of the injured party and the Government.

(1) Such factors as pension rights and other Government benefits accruing to the injured party will mitigate against a finding of hardship.

(2) Sympathy for the injured party or those connected with him and other subjective considerations are not relevant in determining undue hardship.

(3) An objective balance between the interest of the injured party and the Government must be obtained.

(b) No rule will fit every case since each must be decided on an individual basis. There are, however, several questions that should be answered before a file is forwarded for approval. There are in addition others that may be germane to the specific case being handled:

(1) Does the injured party have any permanent disability and, if so, to what degree?

(2) If there is permanent disability and the injured party is a member of a uniformed service, will he be medically discharged and, if so, what pension will he receive from the United States?

(3) Has the injured party incurred any separate medical expenses for which U.S. treatment was not available or authorized?

(4) Will the injured party have to pay counsel fees?

(5) How much will they be?

(6) Who will bear the expense of any necessary future medical treatment?

(7) Has the injured party suffered, and will he suffer in the future, any loss of wages?

(8) What is the financial status of the injured party? This discussion should cover his marital status, obligations to his family, debts, etc.

(9) What out-of-pocket expenses did the injured party have?

(10) If the waiver request is predicated on a compromise offer by the third party or his insurer, what is the size of the judgment that could reasonably be expected if the case were litigated?

(11) What amount is offered in settlement?

§ 842.145 When compromise may be warranted.

(a) Compromise of the Government's claim may be warranted in three situations:

(1) When the liability aspects of the Government and injured party's claims are weak.

(2) When there is a question that the hospitalization incurred was necessary.

(3) When the third party's liability insurance coverage is limited.

(i) If the U.S.'s claim exceeds or represents a substantial portion of the liability coverage available, an injured party's counsel is justifiably reluctant to cooperate in asserting the U.S. claim. Frequently U.S. attorneys have intervened in pending litigation in such cases, then later had to compromise the U.S. claim. The Department of Justice has ruled that U.S. representatives may offer to accept a percentage of any recovery in return for the counsel's cooperation and, in proper cases, will consider requests for authority to compromise before settlement offers are received.

(ii) When a serviceman's (and the U.S.'s) claim is one of several arising from an accident, insurance companies tend to settle it last. Unless insurance coverage is large enough to settle all claims, the Government and the serviceman may not receive a fair and equitable share. If the injured party's attorney has agreed to represent the United States, we cannot enter into separate negotiations. If he has not, the insurer will normally settle the Government's claim only after settling the serviceman's. The staff judge advocate may avoid this problem by asking for advance authority to compromise the Government's claim

on a percentage basis. Then by reducing the Government's claim, he may get an earlier settlement for a larger amount and at the same time avoid imposing any limitation on the injured party.

(b) When in a compromise negotiation the third party offers a settlement, the staff judge advocate may continue to negotiate, until the third party or his representative indicates that he will negotiate no further. Then the staff judge advocate will forward the claim file through hospital recovery channels.

§ 842.146 Releasing records and requesting witnesses.

(a) Records of medical history, diagnosis, treatment, and prognosis may be withheld from the injured party or other party claiming through him, pending compliance with § 842.143(b). After compliance, the base staff judge advocate may authorize release of the information without seeking approval from higher authority. A fee will be charged if specified in Part 813, Subchapter B of this chapter.

(b) Frequently an insurer has been prepared to pay the U.S. claim. However, the AF Form 438 provided him was insufficient to support a determination of the reasonableness of the extent of treatment since it merely showed the number of days hospitalized and the outpatient visits and made brief reference to the injury and prognosis. This problem can be avoided by using SF 544, "Statement of Patient's Treatment," which was specifically developed to release medical treatment information to insurance companies (see paragraph 6-6h, AFM 168-4 (Administration of Medical Activities)). When properly prepared it satisfies the request for itemization of medical treatment.

(c) If the injured party asks for authorized travel or TDY, forward his request. In the recommendation, show whether permissive TDY under AFR 35-26 (Permissive Temporary Duty) would be an acceptable alternative.

Subpart M—Nonappropriated Fund Claims

§ 842.150 Scope of subpart.

This subpart governs the administrative settlement and payment of claims against nonappropriated funds that arise from the acts or omissions of nonappropriated fund employees and certain other persons, claims otherwise caused by a nonappropriated fund, and the personnel claims of fund employees. It also provides for asserting certain tort claims in favor of the funds.

§ 842.151 Claims involving commercial insurance.

When the fund is protected by commercial insurance, all such claims will be referred to the commercial insurer for settlement. Under certain circumstances, foreign claims covered by insurance may be settled under this subpart.

§ 842.152 Claims payable and not payable under this subpart.

Rule	A If a claim—	B And is caused by—	C Then it is—	
			Payable	Not payable
1		Paid, civilian employees of the fund while acting within the scope of their employment.	X	
2	Arises out of operation of a nonappropriated fund.	Military personnel or appropriated fund employees while performing military duties for the fund for which they are paid from the fund (see Rule 5B).	X	
3		Negligent operation or condition of fund premises for which the fund is responsible (see Rule 5B).	X	
4		Members, participants, or authorized users of fund property (see note).	X	
5		Military or appropriated fund civilian employees performing assigned Air Force duties, even though they involve nonappropriated funds.		X
6		Negligent construction or maintenance of a facility for which the Air Force is responsible (see Rule 3B and AFR 34-67 (Support for Religious Welfare and Recreation Facilities)).		X
7	Is payable from appropriated funds.	Other such circumstances as those in Rules 6 and 6....		X

Note: This procedure agrees with Department of Defense policy that no claim previously covered by commercial comprehensive liability insurance be excluded. In practice, this means that a claim arising from the activity of a fund customer would not normally be payable.

§ 842.153 Claims submitted by fund employees, customers, members, and participants.

(a) *Fund employees.* (1) Tort and tort-type workmen's compensation claims submitted by fund employees are not cognizable under this subpart since the remedies listed in this paragraph are exclusive:

(i) Civilian employees (part or full-time): All nonappropriated fund employees within the United States and those outside the CONUS who are U.S. citizens or are permanent residents of the United States are covered by the Longshoremen's and Harbor Workers' Act.

(ii) Foreign civilian employees outside CONUS are protected by private insurance of the fund or other arrangements.

(iii) Military personnel working part time for the fund and paid by the fund are covered by military benefits.

(2) Personnel claims of employees for loss of or damage to their personal property incident to their employment will be processed and settled in the same manner as claims submitted by fund employees.

ner as authorized in Subpart C of this part. Payment will be made from nonappropriated funds.

(b) *Fund customers, members, participants, or authorized users.* The claims of such persons will be considered and processed as third party claims, except:

(1) Customer complaint claims are not cognizable under this subpart. The procedures outlined in AFR 176-8 (Protection of Assets) and paragraph 5.11, Exchange Service Manual 55-3, apply. However, if a claim cannot be satisfactorily settled under those procedures, or includes a demand for other damages (such as personal injury or property damage to other than the article purchased or serviced), it is processed as a third party claim.

(2) Personnel claims of members or participants in morale, recreational, or welfare activities, jointly operated by appropriated and nonappropriated funds, are not cognizable under Subpart C of this part, and if compensable, must be processed under another appropriate subpart.

§ 842.154 Claims in favor of nonappropriated funds.

Tort claims: The procedures set forth in Subpart H or J of this part, as appropriate, will be used unless other procedures are prescribed by the fund (see paragraph 5.10, Exchange Service Manual 55-3, and AFR 176-8).

Subpart N—Civil Air Patrol (CAP)
Claims (5 U.S.C. 8141(c); 10 U.S.C. 2733, 2734, 9441, and 9801-9806; 28 U.S.C. 2671-2680; 31 U.S.C. 71, 951-953, and 36 U.S.C. 201-208)

§ 842.160 Scope of subpart.

This subpart explains how to process certain administrative claims for and against the United States that arise out of CAP activities during specifically as-

§ 842.162 Cognizable third party claims.

Rule	A If claim is—	B And—	C Then it is—	
			Cognizable	Not cognizable
1	For personal injury, death or property damage.	It arises from an accident or incident and was proximately caused by the CAP acting under Air Force direction on a specially assigned mission.	X	
2	A reimbursement claim.	Is for use or depreciation of privately owned property used by the CAP, its senior members, or cadets on any mission specifically assigned by the Air Force.		X
3	An indemnity claim.	Is for damage to or loss of privately owned property used on any mission specifically assigned by the Air Force that resulted from acts or omissions of the owner or operator.		X
4	For personal services or expenses.	They were incurred by the CAP, its senior members, or cadets while engaged in any mission specifically assigned by the Air Force.		X
5	For damage or injury.	It arises out of a CAP accident or incident that occurs when CAP is not under Air Force direction.		X
6		It arises out of CAP accident or incident occurring outside time limits prescribed for an Air Force specially assigned mission.		X
7	Based solely on Government ownership of property on loan to CAP.			X

§ 842.163 Compensation claims.
(a) *Coverage.* Compensation benefit claims by volunteer civilian CAP members (except CAP cadets), or their survivors, for personal injury or death and medical and burial expenses relating to such injury or death are limited; Federal law applies only in special situations. (1) Compensation claims are cognizable under the Federal Employees' Com-

signed operational missions under the direction of the Air Force, or from damage to U.S. Government property by the CAP or a third party.

§ 842.161 Relation of the CAP to the Air Force.

The law that established the CAP, a nonprofit civilian corporation, as a volunteer civilian auxiliary of the Air Force authorized the Air Force to give it certain limited assistance and to use CAP services to fulfill the Air Force noncombat mission (10 U.S.C. 9441, and 36 U.S.C. 201-208). Since CAP senior and cadet members are members of a corporation, they are not military and civilian employees within the meaning of 31 U.S.C. 240-242. Nothing in this subpart confers military or veteran status on any person.

pensation Act and regulations of the Bureau of Employees' Compensation, U.S. Department of Labor. They include claims that arise incident to active service, or travel to or from active service, when the service was:

(i) Authorized in writing by a competent authority for a specific assignment within a prescribed time limit; and

(ii) For the specific purpose of performing or directly supporting an operational CAP mission under Air Force direction.

(2) CAP cadets are specifically excluded from coverage under this law, but may be provided limited service while at encampments, including emergency hospital and medical care (see AFR 46-3 (Civil Air Patrol Cadet Program)).

(b) *Presentation of claim and report.* The claimant (member or survivor) and the local commander of the CAP unit (immediate superior) will initiate and submit claims and obtain supporting documents required by the Department of Labor. To avoid reporting delays, Air Force civilian personnel officers, on request, will provide employee, supervisor, and medical "CA" forms and help the claimant and the CAP unit commander carry out their responsibilities (see AFM 40-1 (Air Force Civilian Personnel Manual)). However, reports, claims, and forms should be submitted to the appropriate office of the Bureau of Employees' Compensation through the local commander of the CAP unit concerned.

§ 842.164 Government claims.

Claims for damage to or loss of Government property on loan (not donated) to the CAP normally are processed under report of survey procedures. However, tort claims for damage or loss caused by a negligent act or omission of a third party, including the negligent operation of privately owned vehicles by CAP senior members or cadets, are cognizable.

By order of the Secretary of the Air Force.

LUCIAN M. FERGUSON,
Colonel, U.S. Air Force, Special
Activities Group, Office of The
Judge Advocate General.

[F.R. Doc. 67-12477; Filed, Oct. 25, 1967;
8:45 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 5A—Federal Supply Service, General Services Administration

PART 5A-73—FEDERAL SUPPLY SCHEDULE PROGRAM

Subpart 5A-73.1—Production and Maintenance

FEDERAL SUPPLY SCHEDULES; DEVELOP- MENT, REVISIONS, AND AGENCY COVER- AGE

1. Section 5A-73.101-2 is amended to add a sentence which reads as follows:

§ 5A-73.101-2 Approval required.

* * * For Schedules which are mandatory upon the Department of Defense, see § 5A-73.109-2(b).

2. Section 5A-73.101-4(a) is amended to add a cross-reference which reads as follows:

§ 5A-73.101-4 No award because of removal of item.

(a) * * * See also § 5A-73.109-2(e).

3. Section 5A-73.109-2 is revised to read as follows:

§ 5A-73.109-2 Determination of agency and geographic coverage.

(a) The extent of agency and geographic coverage shall be determined in collaboration with using agencies in connection with development of new Schedules or major revisions of existing Schedules.

(b) Concurrence of the Department of Defense shall be obtained prior to establishing a Federal Supply Schedule which is mandatory upon the Department of Defense, or prior to adding or removing any items from the Federal Supply Schedules which are mandatory upon the Department of Defense, or making any other changes in such Schedules affecting their use by the Department of Defense in meeting its supply requirements. See also § 5A-73.101-2.

(c) The Office of Supply Management as the representative of the Administration shall, either by exchanges of correspondence, personal contacts or appropriate interagency conferences, take whatever steps are necessary to effect proper coordination and achieve resolution of any problems, including necessary supporting documentation, with representatives of executive agencies and with the Executive Director, Procurement and Production, Defense Supply Agency, as the representative for the Department of Defense.

(d) The Procurement Operations Division shall advise the Office of Supply Management of any proposed action which will affect the concurrence function described in paragraph (b) of this section.

(e) Deletion of an item from a Federal Supply Schedule will not require Department of Defense concurrence when the reports of sales for that item amount to less than \$1,000 per year (see also § 5A-73.101-4), except when:

(1) The item is a part or accessory incidental to a basic item;

(2) The item is a component of a unit assembly;

(3) The item has a demonstrated need to fill out a range of colors, sizes, or other characteristics; or

(4) The item involves a contract for services.

(f) The agency or geographic coverage of a Schedule shall not be extended or reduced without the prior approval of the Director, Procurement Operations Division, in the case of national or zone Schedules or the Director, Procurement

Program and Systems Division, in the case of regional Schedules.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); and CFR 5-1.101(c))

Effective date. These regulations are effective upon publication in the FEDERAL REGISTER.

Dated: October 19, 1967.

H. A. ABERSFELLER,
Commissioner,
Federal Supply Service.

[F.R. Doc. 67-12628; Filed, Oct. 25, 1967;
8:46 a.m.]

Chapter 7—Agency for International Development, Department of State MISCELLANEOUS AMENDMENTS TO CHAPTER

Chapter 7 of Title 41 is amended as follows:

PART 7-1—GENERAL

Subpart 7-1.1—Introduction

1. Section 7-1.107 is deleted in its entirety and the following substituted therefor:

§ 7-1.107 Deviations from Federal Procurement Regulations (FPR) and Agency for International Development Procurement Regulations (AIDPR).

§ 7-1.107-1 Description.

The provisions of FPR 1-1.009-1 defining deviations from FPR shall also apply to the AIDPR. The following actions shall also constitute a deviation from FPR or AIDPR:

(a) When a contract clause is set forth in FPR or AIDPR verbatim, use of a collateral provision which modifies either the clause or its prescribed application.

(b) When a contract clause is set forth in FPR or AIDPR but not for use verbatim, use of a contract clause covering the same subject matter which is inconsistent with the intent, principle, and substance of the FPR or AIDPR clause or related coverage of the subject matter.

(c) Omission of any mandatory contract clause.

§ 7-1.107-2 Policy.

It is the policy of AID that deviation from the mandatory requirements of FPR and AIDPR shall be kept at a minimum and be granted only if it is essential to effect necessary procurement and when special and exceptional circumstances make such deviation clearly in the best interests of the Government.

§ 7-1.107-3 Procedure.

(a) Deviation from the FPR or AIDPR affecting one contract or transaction:

(1) Deviations which affect only one contract or procurement will be made only after prior approval by the Assistant Administrator having cognizance over the procuring activity or by a principal deputy designated by the Assistant Administrator. Deviation requests contain-

ing the information listed in paragraph (c) of this section, shall be submitted sufficiently in advance of the effective date of such deviation to allow adequate time for consideration and evaluation by the approving Assistant Administrator.

(2) Requests for such deviations may be initiated by the responsible AID Contracting Officer who shall obtain clearance and approvals as may be required by the approving Assistant Administrator. Prior to submission of the deviation request to the Assistant Administrator for approval, the Contracting Officer shall obtain written comments from the Office of Procurement, Contract Services Division (PROC/CSD). PROC/CSD shall normally be allowed at least five working days prior to the submission of the deviation request to the approving Assistant Administrator, to review these requests and to submit comments. If the exigency of the situation requires more immediate action, the requesting office may arrange with PROC/CSD for a shorter review period. In addition to a copy of the deviation request, PROC/CSD shall be furnished any background or historical data which will contribute to a fuller understanding of the deviation. PROC/CSD's comments shall be made a part of the deviation request file which is forwarded to the approving Assistant Administrator.

(3) Coordination with the Office of General Counsel, as appropriate, should also be effected prior to approval of a deviation by the approving Assistant Administrator.

(b) Class deviations from the FPR or AIDPR: Class deviations are those which affect more than one contract or contractor.

(1) Class deviations from the AIDPR will be processed in the same manner as prescribed in paragraph (a) of this section.

(2) Class deviations from the FPR shall be considered jointly by AID and GSA (FPR 1-1.009-2) unless, in the judgment of the approving Assistant Administrator, after due consideration of the objective of uniformity, circumstances preclude such joint effort. The approving Assistant Administrator shall certify on the face of the deviation the reason for not obtaining GSA coordination. In such cases, PROC/CSD shall be responsible for notifying GSA of the class deviation.

(3) Class deviations from the FPR shall be processed as follows:

(i) The request shall be processed in the same manner as paragraph (a) of this section, except that PROC/CSD shall be allowed at least 10 working days prior to the submission of the deviation request to the approving Assistant Administrator, to effect the necessary coordination with GSA and to submit comments. If the exigency of the situation requires more immediate action, the requesting office may arrange with PROC/CSD for a shorter review and coordination period. GSA's and PROC/CSD's comments shall be made a part of the deviation request

file which is forwarded to the approving Assistant Administrator;

(ii) The request shall be processed in the same manner as paragraph (a) of this section if the request is not being jointly considered by AID and GSA.

(4) Deviations involving basic agreements or other master type contracts are considered to involve more than one contract.

(5) Unless the approval is sooner rescinded, class deviations shall expire 2 years from the date of approval provided that deviation authority shall continue to apply to contracts or task orders which are active at the time the class deviation expires. Authority to continue the use of such deviation beyond 2 years may be requested in accordance with the procedures prescribed in paragraph (a) of this section.

(6) Expiration dates shall be shown on all class deviations.

(c) Requests for deviations shall contain a complete description of the deviation, the effective date of the deviation, the circumstances in which the deviation will be used, a specific reference to the regulation being deviated from, an indication as to whether any identical or similar deviations have been approved in the past, a complete justification of the deviation including any added or decreased cost to the Government, the name of the contractor, and the contract or task order number.

(d) Register of deviations: Separate registers shall be maintained by the procuring activities of the deviations granted from FPR and AIDPR. Each deviation shall be recorded in its appropriate register and shall be assigned a control number as follows: The symbol of the procuring office, the abbreviation "DEV", the fiscal year, the serial number (issued in consecutive order during each fiscal year) assigned to the particular deviation and the suffix "c" if it is a class deviation, e.g., LA-DEV-67-1, LA-DEV-67-2c. The control number shall be embodied in the document authorizing the deviation and shall be cited in all references to the deviation.

(e) Central record of deviations: Copies of approved deviations shall be furnished promptly to the Office of Procurement, PROC/CSD, who shall be responsible for maintaining a central record of all deviations that are granted.

(f) Semiannual report of class deviations:

(1) AID Contracting Officers shall submit a semiannual report to PROC/CSD of all contract actions effected under class deviations to FPR or AIDPR which have been approved pursuant to paragraph (b) of this section.

(2) The report shall contain the applicable deviation control number, the contractor's name, contract number and task order number (if appropriate).

(3) The report shall cover the 6-month periods ending June 30 and December 31, respectively, and shall be submitted within 20 working days after the end of the reporting period.

Subpart 7-4—Procurement Responsibility and Authority

1. Section 7-1.451-3 is revised to read as follows:

§ 7-1.451-3 AID/Washington procuring activities.

The procuring activities located in Washington are the regional bureaus, the Office of Administrative Services and the Contract Services Division, Office of Procurement. Subject to delegations of authority from the Administrator, the regional bureaus are responsible for procurement related to programs and activities for their areas. There are presently five regional bureaus. The regions for which they are responsible are: Near East-South Asia, Africa, East Asia, Vietnam, and Latin America. They are headed by Assistant Administrators of AID (for the purpose of AIDPR, the Bureau for Latin America is headed by the U.S. Coordinator and the Deputy U.S. Coordinator of the Alliance for Progress). The Office of Administrative Services, which is under the Assistant Administrator for Administration, is responsible for administrative and program support procurements. The Contract Services Division, Office of Procurement, which is also under the Assistant Administrator for Administration, is responsible for procurements which do not fall within the responsibility of other procuring activities, or which are otherwise assigned to it. General delegations to AID/Washington procuring activities are published in the FEDERAL REGISTER and in chapter 100 of the AID Manual.

PART 7-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Subpart 7-4.2—Architect-Engineer Services

§ 7-4.203-1 [Amended]

1. Section 7-4.203-1(b) is revised to delete, in its entirety, the phrase "such as the Industrial Development, Transportation, and Housing Service in the Office of Technical Cooperation and Research."

§ 7-4.203-2 [Amended]

2. Section 7-4.203-2(b) is revised to delete, in its entirety, the phrase: "the Office of Technical Cooperation and Research".

Subpart 7-4.53—Procurement Under the AID Research and Analysis Program

§ 7-4.5300 [Amended]

1. Section 7-4.5300 is revised to delete the phrase: "Science Director, Office of Technical Cooperation and Research", and insert, in lieu thereof, the phrase: "Research and Institutional Grants Staff, Office of the War on Hunger."

PART 7-30—CONTRACT FINANCING**Subpart 7-30.4—Advance Payments**

1. The Table of Contents for Subpart 7-30.4 is revised to add:

Sec.

7-30.410 Findings, determinations, and authorization.

2. New § 7-30.410 is added as follows:

§ 7-30.410 Findings, determinations, and authorization.

The appropriate authorities for advance payments under AID contracts are section 635(b) of the Foreign Assistance Act of 1961, as amended, and Executive Order No. 11223.

This amendment is effective upon publication in the FEDERAL REGISTER.

Dated: October 18, 1967.

H. REX LEE,
Assistant Administrator
for Administration.

[F.R. Doc. 67-12642; Filed, Oct. 25, 1967;
8:47 a.m.]

Title 49—TRANSPORTATION**Subtitle A—Office of the Secretary of Transportation**

[OST Docket No. 11, Amdt. 3-1]

PART 3—OFFICIAL SEAL**Limitations on Use of the Seal**

The purpose of this amendment is to add a new §3.5 to Part 3 of the Regulations of the Secretary "Official Seal", to prescribe the limited conditions under which persons or organizations outside of the Department of Transportation may use the Seal of the Department.

Since the Seal is the official emblem of the Department, this amendment provides strict guidelines under which limited uses may be made. Requests for permission to use the Seal must be made, in writing, to the Assistant Secretary for Public Affairs, setting forth in detail the exact use to be made.

In consideration of the foregoing, effective October 20, 1967, Part 3 of the Regulations of the Secretary (49 CFR Part 3) is amended by adding the following new section at the end thereof:

§ 3.5 Use of the Seal.

(a) The Seal is the official emblem of the Department of Transportation and its use is therefore permitted only as provided in this part.

(b) Use by any person or organization outside of the Department may be made only with the Department's prior written approval.

(c) Requests by any person or organization outside of the Department for permission to use the Seal must be made in writing to the Assistant Secretary for Public Affairs, 800 Independence Avenue SW., Washington, D.C. 20590, and must specify, in detail, the exact use to be made. Any permission granted applies only to the specific use for which it was

granted and is not to be construed as permission for any other use.

(d) Use of the Seal shall be essentially for informational purposes. The Seal may not be used on any article or in any manner which may discredit the Seal or reflect unfavorably upon the Department or which implies Departmental endorsement of commercial products or services, or of the users' policies or activities. Specifically, permission may not be granted under this section for use—

(1) On souvenir or novelty items of an expendable nature;

(2) On toys, gifts, or premiums;

(3) As a letterhead design;

(4) On menus, matchbook covers, calendars, or similar items;

(5) To adorn civilian clothing; or

(6) On athletic clothing or equipment.

(e) Where necessary to avoid any prohibited implication or confusion as to the Department's association with the user, an appropriate legend will be prescribed by the Department for prominent display in connection with the permitted use.

(f) Falsely making, forging, counterfeiting, mutilating, or altering the Seal, or knowingly using or possessing with fraudulent intent any altered Seal is punishable under section 506 of title 18, United States Code.

Since this amendment relates to Departmental management, procedures, and practices, notice and public procedure thereon is unnecessary and the amendment may be made effective in less than 30 days after publication. This amendment is issued under the authority of section 9(k) of the Department of Transportation Act (49 U.S.C. 1657(h)).

Issued in Washington, D.C., on October 20, 1967.

ALAN S. BOYD,
Secretary of Transportation.

[F.R. Doc. 67-12644; Filed, Oct. 25, 1967;
8:47 a.m.]

Title 50—WILDLIFE AND FISHERIES**Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior****PART 32—HUNTING****Tennessee National Wildlife Refuge, Tenn.**

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

TENNESSEE**TENNESSEE NATIONAL WILDLIFE REFUGE**

Public hunting of geese, ducks, and coots on the Tennessee National Wildlife Refuge, Tenn., is permitted only on the area designated by signs as open to hunting. This open area, comprising

5,000 acres, is delineated on a map available at the refuge headquarters, Paris, Tenn., and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 809 Peachtree-Seventh Building, Atlanta, Ga. 30323. Hunting shall be in accordance with applicable State regulations except for the special conditions indicated:

(1) Open season to run from November 29, 1967, through January 7, 1968. A kill quota of 500 geese is established. If this quota is reached during the above open season, the refuge hunt for all waterfowl species will be terminated. Hunting will be permitted from opening time to 12 noon each day, Wednesdays through Sundays.

(2) Blinds—The construction of blinds by the public is prohibited. Hunters are authorized to hunt only from blinds constructed by the Bureau, as specified on their permit. Blind fees will be \$2 per person or \$4 per blind if occupied singly.

(3) Guns must be unloaded at all times except when hunters are inside blinds. No shooting is permitted outside blinds.

(4) Ammunition—No hunter may possess or fire more than twelve (12) shells during any one refuge hunting trip. Shells containing shot larger than Number two (2) will be prohibited.

(5) Intoxicating beverages and persons under the influence of intoxicating beverages or drugs will not be permitted on the refuge.

(6) Hunters under sixteen (16) years of age must be accompanied by an adult.

(7) Hunters are required to check in and out of the designated checking station.

(8) Only persons with a refuge permit and authorized officials will be allowed in the hunting area.

(9) Hunters must be in possession of a valid Tennessee Hunting License and, if sixteen (16) years of age or older, an unexpired Federal migratory bird hunting stamp to be eligible to draw for a blind.

(10) Controlled retrievers will be permitted on the refuge hunt.

(11) No more than two persons will be permitted to hunt from a blind.

(12) Applications for advance reservations for refuge permits must be submitted in writing to the refuge office, Bureau of Sport Fisheries and Wildlife, Box 849, Paris, Tenn. 38242. Applications will be accepted during the period October 1, 1967, through October 15, 1967. Only one application will be accepted per individual. Advance reservation dates will be awarded on the basis of a drawing held at the refuge office on October 17, 1967, and the successful hunters will be promptly notified of the date(s) they are to participate. Blinds for hunters holding advance reservations will be awarded on the basis of a drawing held each hunt morning, 1½ hours before shooting time, at the checking station. Blinds not claimed one (1) hour before shooting time will be awarded on the basis of a drawing held at the checking station each morning.

The provisions of this special regulation supplement the regulations which

govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 7, 1968.

W. L. TOWNS,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

OCTOBER 18, 1967.

[F.R. Doc. 67-12629; Filed, Oct. 25, 1967;
8:46 a.m.]

PART 32—HUNTING

Conboy Lake National Wildlife Refuge, Wash.; Correction

In F.R. Doc. 67-11744, appearing on page 13869 of the issue for Thursday, October 5, 1967, the second sentence, first paragraph, should read as follows:

This open area, comprising 1,900 acres, is delineated on a map available at refuge headquarters, Toppenish National Wildlife Refuge, Toppenish, Wash., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 730 Northeast Pacific Street, Portland, Oreg. 97208.

CLAY E. CRAWFORD,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

OCTOBER 19, 1967.

[F.R. Doc. 67-12631; Filed, Oct. 25, 1967;
8:46 a.m.]

PART 33—SPORT FISHING

Arrowwood National Wildlife Refuge, N. Dak.; Correction

In F.R. Doc. 67-10964, appearing on page 13229 of the issue for Tuesday, September 19, 1967, subparagraph (1) under special conditions should read as follows:

(1) The open season for sport fishing on the refuge shall extend from November 13, 1967, to March 24, 1968, daylight hours only.

ARNOLD D. KRUZE,
Refuge Manager, Arrowwood National Wildlife Refuge, Edmunds, N. Dak.

OCTOBER 19, 1967.

[F.R. Doc. 67-12630; Filed, Oct. 25, 1967;
8:46 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Definition of "Trade or Business Within the United States" as Applied to Nonresident Aliens and Foreign Corporations

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: CC : LR : T, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] SHELDON S. COHEN,
Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) to amendments contained in section 864(b) of the Internal Revenue Code of 1954 relating to the definition of trade or business within the United States conducted by nonresident alien individuals and foreign corporations, made by section 102(d) of the Foreign Investors Tax Act of 1966 (80 Stat. 1544), such regulations are amended as follows:

PARAGRAPH 1. Section 1.864 is amended to read as follows:

§ 1.864 Statutory provisions; definitions.

SEC. 864. *Definitions*—(a) *Sale, etc.* For purposes of this part, the word "sale" includes "exchange"; the word "sold" includes "exchanged"; and the word "produced" includes "created", "fabricated", "manufactured", "extracted", "processed", "cured", and "aged".

(b) *Trade or business within the United States*—For purposes of this part, part II, and chapter 3, the term "trade or business within the United States" includes the performance of personal services within the United States at any time within the taxable year, but does not include—

(1) *Performance of personal services for foreign employer*—The performance of personal services—

(A) For a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States, or

(B) For an office or place of business maintained in a foreign country or in a possession of the United States by an individual who is a citizen or resident of the United States or by a domestic partnership or a domestic corporation,

by a nonresident alien individual temporarily present in the United States for a period or periods not exceeding a total of 90 days during the taxable year and whose compensation for such services does not exceed in the aggregate \$3,000.

(2) *Trading in securities or commodities*—

(A) *Stocks and securities*—

(i) *In general*—Trading in stocks or securities through a resident broker, commission agent, custodian, or other independent agent.

(ii) *Trading for taxpayer's own account*—Trading in stocks or securities for the taxpayer's own account, whether by the taxpayer or his employees or through a resident broker, commission agent, custodian, or other agent, and whether or not any such employee or agent has discretionary authority to make decisions in effecting the transactions. This clause shall not apply in the case of a dealer in stocks or securities, or in the case of a corporation (other than a corporation which is, or but for section 542(c) (7) or 543(b) (1) (C), would be, a personal holding company) the principal business of which is trading in stocks or securities for its own account, if its principal office is in the United States.

(B) *Commodities*—

(i) *In general*—Trading in commodities through a resident broker, commission agent, custodian, or other independent agent.

(ii) *Trading for taxpayer's own account*—Trading in commodities for the taxpayer's own account, whether by the taxpayer or his employees or through a resident broker, commission agent, custodian, or other agent, and whether or not any such employee or agent has discretionary authority to make decisions in effecting the transactions. This clause shall not apply in the case of a dealer in commodities.

(iii) *Limitation*—Clauses (i) and (ii) shall apply only if the commodities are of a kind customarily dealt in on an organized commodity exchange and if the transaction is of a kind customarily consummated at such place.

(C) *Limitation*—Subparagraphs (A) (i) and (B) (i) shall apply only if, at no time during the taxable year, the taxpayer has an office or other fixed place of business in the United States through which or by the direction of which the transactions in stocks or securities, or in commodities, as the case may be, are effected.

[Sec. 864 as amended by sec. 102(d), Foreign Investors Tax Act 1966 (80 Stat. 1544)]

PAR. 2. The following new sections are added immediately after § 1.864:

§ 1.864-1 Meaning of sale, etc.

For purposes of §§ 1.861 through 1.864-7, the word "sale" includes "exchange"; the word "sold" includes "exchanged"; the word "produced" includes "created", "fabricated", "manufactured", "extracted", "processed", "cured", or "aged".

§ 1.864-2 Trade or business within the United States.

(a) *In general*. As used in part I (section 861 and following) and part II (section 871 and following), subchapter N, chapter 1 of the Code, and chapter 3 (section 1441 and following) of the Code, and the regulations thereunder, the term "engaged in trade or business within the United States" does not include the activities described in paragraphs (c) and (d) of this section, but includes the performance of personal services within the United States at any time within the taxable year except to the extent provided in paragraph (b) of this section.

(b) *Performance of personal services for foreign employer*. For purposes of paragraph (a) of this section, the term "engaged in trade or business within the United States" does not include the performance of personal services—

(1) For a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States at any time during the taxable year, or

(2) For an office or place of business maintained in a foreign country or in a possession of the United States by an individual who is a citizen or resident of the United States or by a domestic partnership or a domestic corporation,

by a nonresident alien individual who is temporarily present in the United States for a period or periods not exceeding a total of 90 days during the taxable year and whose compensation for such services does not exceed in the aggregate a gross amount of \$3,000. The term "day", as used in this paragraph, means a calendar day during any portion of which the nonresident alien individual is physically present in the United States. Solely for purposes of applying subparagraph (1) of this paragraph, the nonresident alien individual, foreign partnership, or foreign corporation for which the nonresident alien individual is performing personal services in the United States shall not be considered to be engaged in trade or business in the United States by reason of the performance of such services by such individual. In applying subparagraph (1) or (2) of this paragraph it is immaterial whether the services performed by the nonresident alien individual are performed as an employee for his employer or under any form for contract with the person for

whom the services are performed. See section 7701(a)(5) and § 301.7701-5 of this chapter (Procedure and Administration Regulations) for the meaning of "foreign" when applied to a corporation or partnership. As to the source of compensation for personal services, see §§ 1.861-4 and 1.862-1. The application of this paragraph may be illustrated by the following examples:

Example (1). During 1967, A, a nonresident alien individual, is employed by the London office of a domestic partnership. A, who uses the calendar year as his taxable year, is temporarily present in the United States during 1967 for 60 days performing personal service in the United States for the London office of the partnership and is paid by that office a total gross salary of \$2,600 for such services. During 1967, A is not engaged in trade or business in the United States solely by reason of his performing such personal services for the London office of the domestic partnership.

Example (2). The facts are the same as in example (1), except that A's total gross salary for the services performed in the United States during 1967 amounts to \$3,500, of which \$2,625 is received in 1967 and \$875 is received in 1968. During 1967, A is engaged in trade or business in the United States by reason of his performance of personal services in the United States.

(c) *Trading in stocks or securities.* For purposes of paragraph (a) of this section—

(1) *In general.* The term "engaged in trade or business within the United States" does not include the effecting of transactions in the United States in stocks or securities through a resident broker, commission agent, custodian, or other independent agent. This subparagraph shall apply to any taxpayer, including a broker or dealer in stocks or securities, except that it shall not apply if at any time during the taxable year the taxpayer has an office or other fixed place of business in the United States through which, or by the direction of which, the transactions in stocks or securities are effected. The volume of stock or security transactions effected during the taxable year shall not be taken into account in determining under this subparagraph whether the taxpayer is engaged in trade or business within the United States.

(2) *Trading for taxpayer's own account—(i) In general.* The term "engaged in trade or business within the United States" does not include the effecting of transactions in the United States in stocks or securities for the taxpayer's own account, irrespective of whether such transactions are effected by or through—

(a) The taxpayer himself while present in the United States,

(b) Employees of the taxpayer, whether or not such employees are present in the United States while effecting the transactions, or

(c) A broker, commission agent, custodian, or other agent of the taxpayer, whether or not such agent while effecting the transactions is (1) dependent or independent, or (2) resident, nonresident, or present, in the United States,

and irrespective of whether any such employee or agent has discretionary authority to make decisions in effecting such transactions. For purposes of this subparagraph, the effecting of transactions in stocks or securities includes buying, selling (whether or not by entering into short sales), or trading in stocks, securities, or contracts or options to buy or sell stocks or securities, on margin or otherwise, for the account and risk of the taxpayer, and any other activity closely related thereto (such as obtaining credit for the purpose of effectuating such buying, selling, or trading). The volume of stock or security transactions effected during the taxable year shall not be taken into account in determining under this subparagraph whether the taxpayer is engaged in trade or business within the United States. The application of this subdivision may be illustrated by the following example:

Example. A, a nonresident alien individual who is not a dealer in stocks or securities, authorizes B, an individual resident of the United States, as his agent to effect transactions in the United States in stocks and securities for the account of A. B is empowered with complete authority to trade in stocks and securities for the account of A and to use his own discretion as to when to buy or sell for A's account. This grant of discretionary authority from A to B is also communicated in writing by A to various domestic brokerage firms through which A ordinarily effects transactions in the United States in stocks or securities. Under the agency arrangement B has the authority to place orders with the brokers, and all confirmations are to be made by the brokers to B, subject to his approval. The brokers are authorized by A to make payments to B and to charge such payments to the account of A. In addition, B is authorized to obtain and advance the necessary funds, if any, to maintain credits with the brokerage firms.

Pursuant to his authority B carries on extensive trading transactions in the United States during the taxable year through the various brokerage firms for the account of A. During the taxable year A makes several brief visits to the United States in order to discuss with B various aspects of his trading activities and to make necessary changes in his trading policy. A is not engaged in trade or business within the United States during the taxable year solely because of the effecting by B of transactions in the United States in stocks or securities during such year for the account of A.

(ii) *Partnerships.* A nonresident alien individual or foreign corporation shall not be considered to be engaged in trade or business within the United States solely because such person is a member of a partnership (whether domestic or foreign) which, pursuant to discretionary authority granted to such partnership by such person, effects transactions in the United States in stocks or securities for the account of such person or solely because an employee of such partnership, or a broker, commission agent, custodian, or other agent, pursuant to discretionary authority granted by such partnership, effects transactions in the United States in stocks or securities for the account of such partnership. This subdivision shall not apply, however, to any member of (a) a partnership which is a dealer in stocks or securities or (b) a partnership

(other than a partnership in which, at any time during the last half of its taxable year, more than 50 percent of either the capital interest or the profits interest is owned, directly or indirectly, by five or fewer partners who are individuals) the principal business of which is trading in stocks or securities for its own account, if the principal office of such partnership is in the United States at any time during the taxable year. The principles of subdivision (iii) of this subparagraph for determining whether a foreign corporation has its principal office in the United States shall apply in determining under this subdivision whether a partnership has its principal office in the United States. See section 707(b)(3) and paragraph (b)(3) of § 1.707-1 for rules for determining the extent of the ownership by a partner of a capital interest or profits interest in a partnership. The application of this subdivision may be illustrated by the following examples:

Example (1). B, a nonresident alien individual, is a member of partnership X, the members of which are U.S. citizens, nonresident alien individuals, and foreign corporations. The principal business of partnership X is trading in stocks or securities for its own account. Pursuant to discretionary authority granted by B, partnership X effects transactions in the United States in stocks or securities for the account of B. Partnership X is not a dealer in stocks or securities, and more than 50 percent of either the capital interest or the profits interest in partnership X is owned throughout its taxable year by five or fewer partners who are individuals. B is not engaged in trade or business within the United States solely by reason of such effecting of transactions in the United States in stocks or securities by partnership X for the account of B.

Example (2). The facts are the same as in example (1), except that not more than 50 percent of either the capital interest or the profits interest in partnership X is owned throughout the taxable year by five or fewer partners who are individuals. However, partnership X does not maintain its principal office in the United States at any time during the taxable year. B is not engaged in trade or business within the United States solely by reason of the trading in stocks or securities by partnership X for the account of B.

Example (3). The facts are the same as in example (1), except that, pursuant to discretionary authority granted by partnership X, domestic broker D effects transactions in the United States in stocks or securities for the account of partnership X. B is not engaged in trade or business in the United States solely by reason of such trading in stocks or securities for the account of partnership X.

(iii) *Dealers in stocks or securities and certain foreign corporations.* This subparagraph shall not apply to the effecting of transactions in the United States for the account of (a) a dealer in stocks or securities or (b) a foreign corporation (other than a corporation which is, or but for section 542(c)(7) or 543(b)(1)(C) would be, a personal holding company) the principal business of which is trading in stocks or securities for its own account, if the principal office of such corporation is in the United States at any time during the taxable year. Whether a foreign corporation's principal office is in the

United States for this purpose is to be determined by comparing the activities (other than trading in stocks or securities) which the corporation conducts from its office or other fixed place of business located in the United States with the activities it conducts from its offices or other fixed places of business located outside the United States. For purposes of this subdivision, a foreign corporation is considered to have only one principal office, and an office of such corporation will not be considered to be its principal office merely because it is a statutory office of such corporation. For example, a foreign corporation which carries on most or all of its stock or security transactions in the United States but maintains a general business office outside the United States in which its management is located and from which it carries on all of its functions of communicating with its shareholders and the general public, soliciting sales of its own stock, and maintaining its corporate records and books of account, is not considered as having its principal office in the United States. The application of this subdivision may be illustrated by the following example:

Example. (a) Foreign corporation X (not a corporation which is, or but for section 542(c)(7) or 543(b)(1)(C) would be, a personal holding company) was organized by foreign commercial banks and foreign brokerage houses to sell its shares to nonresident alien individuals and foreign corporations and to invest the proceeds from the sale of such shares in stocks or securities in the United States. Foreign corporation X is engaged primarily in the business of investing, reinvesting, and trading in stocks or securities for its own account.

(b) For a period of three years, foreign corporation X irrevocably authorizes domestic corporation Y to exercise its discretion in effecting transactions in the United States in stocks or securities for the account and risk of foreign corporation X. Foreign corporation X issues a prospectus in which it is stated that its funds will be invested pursuant to an investment advisory contract with domestic corporation Y and otherwise advertises its services. The only functions performed for foreign corporation X by domestic corporation Y is the rendering of investment advice and the effecting of transactions in the United States in stocks or securities for the account of foreign corporation X; domestic corporation Y does not participate in the marketing of the shares issued by foreign corporation X or in the day-to-day conduct of other business activities of foreign corporation X.

(c) Foreign corporation X maintains a general business office outside the United States in which its management is permanently located and from which it communicates with its shareholders and the general public, solicits sales and makes redemptions of its own stock, and maintains its books and records. The management of foreign corporation X at all times retains the independent power to cancel the investment advisory contract with domestic corporation Y subject to the contractual limitations contained therein and is in all other respects independent of the management of domestic corporation Y. The managing personnel of foreign corporation X make occasional visits to the United States at which time they visit the offices of domestic corporation Y in connection with the business activities of foreign corporation X.

(d) The principal office of foreign corporation X will not be considered to be in the United States; and, therefore, foreign corporation X is not engaged in trade or business within the United States solely by reason of its relationship with domestic corporation Y.

(iv) *Definition of dealer in stocks or securities—(a) In general.* For purposes of this subparagraph, a dealer in stocks or securities is a merchant of stocks or securities, whether an individual, partnership, or corporation, with an established place of business, regularly engaged as a merchant in purchasing stocks or securities and selling them to customers with a view to the gains and profits that may be derived therefrom. Persons who buy and sell, or hold, stocks or securities for investment or speculation, irrespective of whether such buying or selling constitutes the carrying on of a trade or business, and officers of corporations and members of partnerships who in their individual capacities buy and sell, or hold, stocks or securities for investment or speculation are not dealers in stocks or securities within the meaning of this subparagraph. In determining under this subdivision whether a person is a dealer in stocks or securities such person's transactions in stocks or securities effected both in and outside the United States shall be taken into account.

(b) *Underwriting syndicates and dealers trading for others.* A foreign person who otherwise may be considered a dealer in stocks or securities for purposes of this subparagraph shall not be considered a dealer in stocks or securities for such purposes—

(1) Solely because he acts as an underwriter or as a selling group member for the purpose of making a distribution of stocks or securities of a domestic issuer to foreign purchasers of such stocks or securities, or

(2) If he can demonstrate to the satisfaction of the Commissioner, in respect of transactions effected in the United States in stocks or securities pursuant to his grant of discretionary authority to make decisions in effecting such transactions, that the broker, commission agent, custodian, or other agent through whom such transactions were effected acted pursuant to his written representation that the funds in respect of which such discretion was granted were the funds of a customer who is neither a dealer in stocks or securities, a partnership described in subdivision (ii) (b) of this subparagraph, or a foreign corporation described in subdivision (iii) (b) of this subparagraph.

For purposes of this (b), a foreign person includes a nonresident alien individual, a foreign corporation, or a partnership any member of which is a nonresident alien individual or a foreign corporation. This (b) shall apply only if the foreign person at no time during the taxable year has an office or other fixed place of business in the United States through which, or by the direction of which, the transactions in stocks or securities are effected.

(c) *Illustrations.* The application of this subdivision may be illustrated by the following examples:

Example (1). Foreign corporation X is a member of an underwriting syndicate organized to distribute stock issued by domestic corporation Y to purchasers who are nonresident alien individuals and foreign corporations. Domestic corporation M is syndicate manager of the underwriting syndicate and, pursuant to the terms of the underwriting agreement, reserves the right to sell certain quantities of the underwritten stock on behalf of all the members of the syndicate so as to engage in stabilizing transactions and to take certain other actions which may result in the realization of profit by all members of the underwriting syndicate. Foreign corporation X is not engaged in trade or business within the United States solely by reason of its participation as a member of such underwriting syndicate or by reason of the exercise by M corporation of its discretionary authority as manager of such syndicate.

Example (2). Foreign corporation Y, a calendar year taxpayer, is a bank which trades in stocks or securities both for its own account and for the account of others. During 1967 foreign corporation Y authorizes domestic corporation M, a broker, to exercise its discretion in effecting transactions in the United States in stocks or securities for the account of B, a nonresident alien individual who has a trading account with foreign corporation Y. Foreign corporation Y furnishes a written representation to domestic corporation M to the effect that the funds in respect of which foreign corporation Y has authorized domestic corporation M to use its discretion in trading in the United States in stocks or securities are not funds in respect of which foreign corporation Y is trading for its own account but are the funds of one of its customers who is neither a dealer in stocks or securities, a partnership described in subdivision (ii) (b) of this subparagraph, or a foreign corporation described in subdivision (iii) (b) of this subparagraph. Pursuant to the discretionary authority so granted, domestic corporation M effects transactions in the United States during 1967 in stocks or securities for the account of the customer of foreign corporation Y. At no time during 1967 does foreign corporation Y have an office or other fixed place of business in the United States through which, or by the direction of which, such transactions in stocks or securities are effected by domestic corporation M. During 1967 foreign corporation Y is not engaged in trade or business within the United States solely by reason of such trading in stocks or securities during such year by domestic corporation M for the account of the customer of foreign corporation Y. Copies of the written representations furnished to domestic corporation M should be retained by foreign corporation Y for inspection by the Commissioner, if inspection is requested.

(d) *Trading in commodities.* For purposes of paragraph (a) of this section—

(1) *In general.* The term "engaged in trade or business within the United States" does not include the effecting of transactions in the United States in commodities through a resident broker, commission agent, custodian, or other independent agent if (i) the commodities are of a kind customarily dealt in on an organized commodity exchange, such as a grain futures or a cotton futures market, (ii) the transaction is of a kind customarily consummated at such place, and (iii) the taxpayer at no time during

the taxable year has an office or other fixed place of business in the United States through which, or by the direction of which, the transactions in commodities are effected. This subparagraph shall not apply to the effecting of transactions in commodities for the taxpayer's own account.

(2) *Trading for taxpayer's own account.* The term "engaged in trade or business within the United States" does not include the effecting of transactions in the United States in commodities for the taxpayer's own account if the commodities are of a kind customarily dealt in on an organized commodity exchange and if the transaction is of a kind customarily consummated at such place. This rule shall apply irrespective of whether such transactions are effected by or through—

(i) The taxpayer himself while present in the United States,

(ii) Employees of the taxpayer, whether, or not such employees are present in the United States while effecting the transactions, or

(iii) A broker, commission agent, custodian, or other agent of the taxpayer, whether or not such agent while effecting the transactions is (a) dependent or independent, or (b) resident, nonresident, or present, in the United States,

and irrespective of whether any such employee or agent has discretionary authority to make decisions in effecting such transactions. The application of this subparagraph may be illustrated by the following example:

Example. Foreign corporation X, a calendar year taxpayer, is engaged as a merchant in the business of purchasing grain in South America and selling such cash grain outside the United States under long-term contracts for delivery in foreign countries. Foreign corporation X consummates a sale of 100,000 bushels of cash grain in February 1967 for July delivery to Sweden. Because foreign corporation X does not actually own such grain at the time of the sales transaction, such corporation buys as a hedge a July "futures contract" for delivery of 100,000 bushels of grain, in order to protect itself from loss by reason of a possible rise in the price of grain between February and July. The "futures contract" is ordered through domestic corporation Y, a futures commission merchant registered under the Commodity Exchange Act. Foreign corporation X is not engaged in trade or business within the United States during 1967 solely by reason of its effecting of such futures contract for its own account through domestic corporation Y.

(3) *Definition of commodity.* For purposes of section 864(b)(2)(B) and this paragraph the term "commodities" does not include goods or merchandise in the ordinary channels of commerce. Thus, this paragraph and such section apply solely to the purchase or sale of commodities for future delivery, including such a purchase or sale which is entered into as part of a hedging transaction. The purchase or sale of a commodity for future delivery does not include a purchase or sale of a cash commodity for deferred shipment or delivery.

(e) *Other rules.* The fact that an individual, partnership, or corporation is not determined by reason of this section to be not engaged in trade or business within the United States is not to be considered a determination that such person is engaged in trade or business within the United States. Whether or not such person is engaged in trade or business within the United States shall be determined on the basis of the facts and circumstances in each case. For other rules relating to the determination of whether a taxpayer is engaged in trade or business in the United States see section 875 and the regulations thereunder.

(f) *Effective date.* The provisions of this section shall apply only in the case of taxable years beginning after December 31, 1966.

[F.R. Doc. 67-12680; Filed, Oct. 25, 1967; 8:50 a.m.]

POST OFFICE DEPARTMENT

[39 CFR Parts 224, 232]

INTERNATIONAL MAIL

Customs Clearance and Delivery Fees

Notice is hereby given of proposed rule making consisting of revisions to §§ 224.1(a)(1) and 232.1(a) of Title 39, Code of Federal Regulations and proposed revision in paragraph (a)(1) of § 224.1 which will reflect an increase of fees collected from the addressee of 13 cents to 20 cents on every incoming postal union article other than a small packet on which customs duty or internal revenue tax is collected. A second proposed revision in paragraph (a)(1) of § 224.1 will reflect an increase of fees collected from 33 cents to 50 cents on every small packet. This second proposed increase would be reflected in paragraph (a) of § 232.1 where the customs clearance and delivery fee would be changed from 33 cents to 50 cents on every incoming parcel post package on which customs duty or internal revenue tax is collected.

Interested persons who may wish to submit written data, views, and arguments concerning the proposed fee increases may submit such comments to the Director, Classification and Special Services Division, Bureau of Operations, Post Office Department, Washington, D.C. 20260, at any time prior to the 30th day following the date of publication of this notice in the FEDERAL REGISTER.

Accordingly, it is proposed that §§ 224.1(a)(1) and 232.1(a) read as follows and to be effective January 1, 1968:

PART 224—TREATMENT OF INCOMING POSTAL UNION MAIL

§ 224.1 Charges.

(a) *Customs clearance and delivery fees.* (1) Post offices will collect a fee of 20 cents from the addressee of every postal union article, other than a small packet, on which customs duty or internal revenue tax is collected. On every small packet on which duty or internal

revenue tax is collected, the fee is 50 cents for each packet. The fees apply also when post office service is rendered for formal entry articles on which importers pay the customs charges directly to the Customs Service. The fees are retained by the Postal Service, and are accounted for by affixing postage due stamps to the articles or packets and canceling. See § 232.1(a) of this chapter concerning fees on incoming dutiable parcel post, and § 261.5(e) of this chapter concerning recording and reporting duty collections.

NOTE: The corresponding Postal Manual Section is 224.111.

PART 232—INCOMING PARCELS

§ 232.1 Charges.

(a) *Customs clearance and delivery fees.* Post offices will collect a fee of 50 cents from the addressee of every parcel post package on which customs duty or internal revenue tax is collected. The fee applies also when post office service is rendered for formal entry parcels on which importers pay the customs charges directly to the Customs Service. The fee is retained by the Postal Service, and is accounted for by affixing postage due stamps to the parcel or to a postage due bill and canceling. The fee is authorized by international parcel post agreements as reimbursement to the Postal Service for the work it performs in clearing parcels through customs and for delivery to the addressee. The provisions of § 224.1 (a) (3) through (5) of this chapter also apply. See § 261.5(e) of this chapter concerning recording and reporting duty collections.

NOTE: The corresponding Postal Manual section is 232.11.

(5 U.S.C. 301, 39 U.S.C. 501, 505)

THOMAS J. MAY,
General Counsel.

OCTOBER 24, 1967.

[F.R. Doc. 67-12685; Filed, Oct. 25, 1967; 8:50 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 1131]

[Docket No. AO 271-A12]

MILK IN CENTRAL ARIZONA MARKETING AREA

Notice of Extension of Time for Filing Exceptions to Recommended Decision on Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of

marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given that the time for filing exceptions to the recommended decision with respect to the proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Central Arizona marketing area, which was issued October 9, 1967 (32 F.R. 14232), is hereby extended to November 6, 1967.

Signed at Washington, D.C., on October 20, 1967.

JOHN C. BLUM,
Acting Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 67-12645; Filed, Oct. 25, 1967;
8:47 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 67-SO-100]

CONTROL ZONE

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Fort Stewart, Ga., control zone.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Area Manager, Atlanta Area Office, Attention: Chief, Air Traffic Branch, Federal Aviation Administration, Post Office Box 20636, Atlanta, Ga. 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The Fort Stewart control zone described in § 71.171 (32 F.R. 2071 and 13269) would be altered by deleting " * * * within 2 miles each side of the 049° bearing from the Allenhurst RBN, extending from the 5-mile radius zone to 2 miles northeast of the RBN * * * " and substituting " * * * within 2 miles each side of the 049° bearing from the Allenhurst RBN, extending from the 5-mile radius zone to 2 miles northeast of the RBN; within 2 miles each side of the Liberty TVOR 242° radial, extending from the 5-mile radius zone to 8 miles southwest of the TVOR * * * " therefor.

The proposed additional control zone extension is required for the protection of IFR aircraft executing VOR-RWY-5L standard instrument approach procedure utilizing the recently commissioned Liberty TVOR.

The official docket will be available for examination by interested persons at the Southern Regional Office, Federal Aviation Administration, Room 724, 3400 Whipple Street, East Point, Ga.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348 (a)).

Issued in East Point, Ga., on October 17, 1967.

GORDON A. WILLIAMS, Jr.,
Acting Director, Southern Region.

[F.R. Doc. 67-12662; Filed, Oct. 25, 1967;
8:49 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 91]

[Docket No. 17824; FCC 67-1167]

BUSINESS RADIO SERVICE

Transmission of Program Material to Community Antenna Television (CATV) Systems

In the matter of amendment of § 91.552 of the Commission's rules to provide that stations licensed in the Business Radio Service may not be used for the transmission of program material to community antenna television (CATV) systems, Docket No. 17824.

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. In its "First Report and Order" in Docket 15586 (FCC 65-924, 1 FCC 2d 897), except for certain stations "grandfathered" in until February 1, 1971, the Commission provided that it would no longer grant authorizations in the Business Radio Service for microwave point-to-point radio stations for relaying television, standard, or FM broadcast signals to community antenna television (CATV) systems. The action was taken, among other reasons, to conserve the 12,200-12,700 Mc/s band for private users other than CATV systems. As we stated in paragraphs 34 and 35 of the order:

We do not think it consistent with sound spectrum management to permit one of numerous eligible users in a band to preempt so large a proportion of the available frequencies to the possible prejudice of future use by other applicants * * * The number of authorizations for non-CATV use is growing, and we expect that demands for frequencies in this band will increase in the future * * * The fact that CATV needs are presently growing at a much more rapid pace than those of other users makes action in advance of an actual crisis all the more imperative.

3. In our cutoff action, however, implemented by the adoption of § 91.552(e)

of our rules, we did not prohibit the licensing of a private microwave point-to-point radio station in the Business Radio Service to a CATV system for carrying program material originated in its own studio to the head-end of the CATV cable system for transmission from there by cable to the subscribers.

4. Nevertheless, with the increasing trend toward program origination by CATV systems, there is a strong likelihood that CATV systems, in ever-growing numbers, will desire radio facilities to transmit such programs from the point of origination to the head-ends of the cable systems. In many instances, the programs will probably originate in a studio which is situated at the same point as the head-end, so the program will be fed directly into the cable system. However, in other instances, the studio may be some miles distant from the head-end of the cable system. In this event, the connecting link may be by cable. However, if the economics of the situation dictate otherwise, the CATV system may well request authorizations for private point-to-point microwave facilities instead. If we were to make such grants in the 12,200-12,700 Mc/s band, it would be in derogation of the action taken in the first report and order to conserve that band for non-CATV applicants.

5. Additionally, we believe that the potential demand for microwave links is not necessarily confined to fixed point-to-point facilities. Aside from originating program material in a permanent studio, the CATV system might seek to carry a wide variety of other matters of local origination, such as sport events and parades, which take place at locations not accessible to fixed microwave facilities. In such situations, the CATV system might seek an authorization in the Business Radio Service in the 10,550-10,680 Mc/s microwave mobile band for a mobile radio station to serve as the link between the point of program origination and the head-end of the cable system. To permit this type of operation in the Business Radio Service would be inconsistent with our action in Docket 15586. However, our current rules do not prohibit such usage.

6. We propose here to amend § 91.552 of our rules to provide that stations in the Business Radio Service may not be used for the transmission of program material to community antenna television (CATV) systems. This action should not be construed as a judgment of the merits of program origination by CATV systems. The judgment has already been made, however, that the Business Radio Service is not a suitable vehicle for the transmission of program material intended for distribution to CATV systems when the material emanates from a broadcasting station. The same rationale that supports this judgment, as reflected in § 91.552 of the Commission's rules, is equally applicable to the transmission of program material for this purpose, regardless of where or how it originates. While the present rules governing the Community Antenna Relay (CAR) Serv-

ice prohibit transmissions of any nature except those emanating from a broadcasting station, the basis for this prohibition will be reexamined in the current rule making proceeding in Docket No. 15586, "In the Matter of Amendment of Parts 2, 21, 74, and 91 of the Commission's Rules and Regulations Relative to the Licensing of Microwave Radio Stations Used to Relay Television Signals to Community Antenna Television Systems." The Commission will soon adopt a second report and order in Docket 15586 and the matter of providing private microwave facilities in the CAR Service for carrying locally originated program material to CATV systems will be considered and dealt with at that time.

7. We do not intend to disturb the "grandfather" rights previously accorded under which certain microwave point-to-point radio stations may continue to be authorized in the Business Radio Service, for terms not extending beyond February 1, 1971, to relay television, standard, or FM broadcast signals to CATV systems. However, until the termination of the rule making proceedings herein, we propose to take no action on applications for Business Radio Service stations which would be used to transmit locally originated program material to CATV systems.

8. Authority for the proposed amendment is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

9. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before November 27, 1967, and reply comments on or before December 7, 1967. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

10. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all statements, briefs, and comments filed should be furnished the Commission.

Adopted: October 18, 1967.

Released: October 23, 1967.

FEDERAL COMMUNICATIONS
COMMISSION,¹

[SEAL] BEN F. WAPLE,
Secretary.

In § 91.552 of the Commission's rules, paragraph (a) is amended and paragraph (f) is added to read:

§ 91.552 Availability and use of service.

(a) Except as provided in paragraphs (e) and (f) of this section, the Business Radio Service is available to the extent indicated in the eligibility provisions of this subpart and is intended for use by those who are eligible without restriction

as to the types of messages transmitted as long as they are necessary to the accomplishment of the business activity concerned: *Provided, however*, That all stations licensed in this service must accord first priority for the use of the frequency concerned to any station transmitting communications resulting from an actual emergency involving immediate danger to life or property.

(f) Stations licensed in the Business Radio Service may not be used for the transmission of program material to community antenna television (CATV) systems. However, stations authorized as of November 22, 1965, to relay television, standard, or FM broadcast signals to CATV systems, and stations so authorized after that date in accordance with paragraph (d) of this section, may continue to relay such broadcast signals to CATV systems pursuant to the terms of the station authorizations but in no event beyond February 1, 1971.

[F.R. Doc. 67-12656; Filed, Oct. 25, 1967;
8:48 a.m.]

FEDERAL RESERVE SYSTEM

[12 CFR Part 207]

[Reg. G]

LOANS BY PERSONS OTHER THAN BANKS, BROKERS, OR DEALERS

Notice of Proposed Rule Making

The Board of Governors of the Federal Reserve System is considering the adoption of a new Part 207 (Regulation G), to be issued pursuant to authority contained in the Securities Exchange Act of 1934 (15 U.S.C. 78g), as follows:

- Sec.
207.1 General rule.
207.2 Definitions.
207.3 Reports and records.
207.4 Miscellaneous provisions.
207.5 Supplement.

AUTHORITY: The provisions of this Part 207 issued under 15 U.S.C. 78g.

§ 207.1 General rule.

(a) Every person who, in the ordinary course of his business, after October 20, 1967, makes or arranges for the making or maintenance of any loan for the purpose¹ of purchasing or carrying any registered security² (hereinafter called "purpose loan") and who is not subject to Part 220 of this chapter (Regulation T) or Part 221 of this chapter (Regulation U) is a "lender" subject to this part.

(b) After October 20, 1967, no lender shall, (1) make or arrange for the making or maintenance of any purpose loan which is secured directly or indirectly,³ in whole or in part, by any registered security (other than an exempted security)⁴ without first having registered with the Board of Governors of the Fed-

eral Reserve System by filing Federal Reserve Form G-1 with the Federal Reserve Bank of the district in which the principal office of the lender is located, or (2) make any such loan in an amount exceeding the maximum loan value of the collateral, as prescribed from time to time for registered equity securities in § 207.5 (the Supplement to this Regulation G), and as determined by the lender in good faith for any collateral other than registered equity securities: *Provided, however*, That in respect to a loan made after October 20, 1967, and before (effective date) such form shall be filed by, and any reduction in the loan or deposit of collateral required to meet this requirement shall be accomplished by (effective date).

(c) No lender shall make any purpose loan to any person who is a creditor subject to Part 220 of this chapter (Regulation T) except loans on exempted securities and loans to dealers (as defined in § 220.2(a) of this chapter) to aid in the financing of the distribution of securities to customers not through the medium of a national securities exchange. Where the proceeds of a loan are to be used in the ordinary course of business of a creditor, the loan is presumed to be for the purpose of purchasing or carrying registered securities unless the lender has in his records a statement signed by the creditor which affirmatively describes a different purpose for the loan.

(d) For the purpose of this part, the aggregate of all outstanding purpose loans to a borrower by a lender shall be considered a single loan; and all the collateral securing such a loan shall be considered in determining whether the loan complies with this part.

(e) No lender shall make or maintain any purpose loan if the loan is secured directly or indirectly by any registered or exempted security which also serves to secure directly or indirectly any other loan to the borrower, and no lender shall make or maintain any purpose loan which is to be secured by both registered equity securities and any other collateral.

(f) (1) Except as permitted in subparagraph (2) of this paragraph, while a lender maintains any purpose loan, whenever made, the lender shall not at any time permit any withdrawal or substitution of collateral unless either (i) the loan would not exceed the maximum loan value of the collateral after such withdrawal or substitution, or (ii) the loan is reduced by at least the amount by which the maximum loan value of any collateral deposited is less than the "retention requirement" of any collateral withdrawn. The retention requirement of collateral other than registered equity securities is the same as its maximum loan value and the retention requirement of collateral consisting of registered equity securities is prescribed from time to time in § 207.5 (the Supplement to this Regulation G).

(2) A lender may permit a substitution of registered non-exempted securities effected by a purchase and sale on orders executed within the same day provided (1) if the proceeds of the sale exceed the total cost of the purchase, the

¹ As defined in § 207.2(c).

² As defined in § 207.2(d).

³ As defined in § 207.2(i).

⁴ As defined in § 207.2(e).

¹ Commissioner Bartley absent.

loan is reduced by at least an amount equal to the retention requirement in respect to the sale less the retention requirement in respect to the purchase, or (ii) if the total cost of the purchase exceeds the proceeds of the sale, the loan may be increased by an amount no greater than the maximum loan value of the securities purchased less the maximum loan value of the securities sold. If the maximum loan value of the collateral securing the loan has become less than the amount of the loan, the amount of the loan may nonetheless be increased if there is provided additional collateral having maximum loan value at least equal to the amount of the increase.

(g) A loan which is secured in whole or in part by a registered security is presumed to be for the purpose of purchasing or carrying such security, unless the lender has in his records a statement signed by the borrower which affirmatively describes the purpose of the loan, and a statement signed by the lender that he has exercised reasonable diligence in acquainting himself with the circumstances surrounding the loan and has no information which would put a prudent man upon inquiry and if investigated with reasonable diligence would lead to the discovery of the falsity of the borrower's statement. Circumstances which would indicate that the lender has not exercised reasonable diligence in so acquainting himself and so investigating would include, but are not limited to, facts such as that (1) the proceeds of the loan were paid to a broker or to a bank against delivery of registered securities, (2) there were frequent substitutions of registered securities serving as collateral for the loan, or (3) the amount and terms of the loan were disproportionate to the stated purpose.

§ 207.2 Definitions.

For the purposes of this part, unless the context otherwise requires:

(a) The term "person" means an individual, a corporation, a partnership, an association, a joint stock company, a trust, or an unincorporated organization.

(b) The term "in the ordinary course of his business" means occurring or reasonably expected to occur in the course of any activity of the lender for livelihood or profit or the management and preservation of property or in addition, in the case of a lender other than an individual, carrying out or in furtherance of a purpose for which the lender was formed.

(c) (1) Substance, rather than form, determines whether a loan is for the "purpose", whether immediate, incidental, or ultimate, of purchasing or carrying registered securities. If the loan is made for such purpose, it is a purpose loan despite any temporary application of the funds otherwise.

(2) A loan is for the purpose of "carrying" a security registered on a national securities exchange if the purpose of the loan is to enable the borrower to reduce or retire indebtedness which was originally incurred to purchase such a security.

(3) A loan is for the purpose of purchasing or carrying a registered security if the loan is for the purpose of purchasing or carrying a security issued by a unit investment trust or management company as defined in the Investment Company Act of 1940, whose assets customarily include registered securities.

(d) The term "registered security" means any security which (1) is registered on a national securities exchange; or (2) has unlisted trading privilege on a national securities exchange and is not suspended from trading thereon; or (3) is exempted by the Securities and Exchange Commission from the operation of section 7(c)(2) of the Securities Exchange Act (15 U.S.C. 78g(c)(2)) only to the extent necessary to render lawful any direct or indirect extension or maintenance of credit on such security or any direct or indirect arrangement therefor which would have been lawful if such security had been a security (other than an exempted security) registered on a national securities exchange.

(e) The term "exempted security" includes securities which are direct obligations of or obligations guaranteed as to principal or interest by the United States; such securities issued or guaranteed by corporations in which the United States has a direct or indirect interest as shall be designated for exemption by the Secretary of the Treasury as necessary or appropriate in the public interest or for the protection of investors; securities which are direct obligations of or obligations guaranteed as to principal or interest by a State or any political subdivision thereof or any agency or instrumentality of a State or any political subdivision thereof or any municipal corporate instrumentality of one or more States; and such other securities (which may include, among others, unregistered securities, the market in which is predominantly intrastate) as the Securities and Exchange Commission may exempt pursuant to the Securities Exchange Act (15 U.S.C. 78) as amended.

(f) The term "equity security" means any stock or similar security; or any security convertible, with or without consideration, into such a security; or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right; or any other security which the Securities and Exchange Commission shall deem to be of similar nature and consider necessary or appropriate, by such rules and regulations as it may prescribe in the public interest or for the protection of investors, pursuant to section 3(a)(11) of the Securities Exchange Act (15 U.S.C. 78c(a)(11)) to treat as an equity security.

(g) (1) The term "purchase" includes any contract to buy, purchase, or otherwise acquire.

(2) The term "sale" includes any contract to sell or otherwise dispose of.

(h) The term "borrower" includes a borrower and any other person to whom a loan is made for the use of the borrower, and also includes any person engaged in

a joint venture with the borrower with respect to a purpose loan.

(i) Any arrangement as to assets of the borrower which (1) serves to protect the interest of the lender in the loan, (2) serves to make assets of the borrower more readily available to the lender than to other creditors of the borrower, or (3) under which the borrower surrenders the right to dispose of assets so long as the loan remains outstanding, makes such assets indirect "collateral" for the loan.

§ 207.3 Reports and records.

(a) Every lender who (1) lends in any one calendar quarter a total of twenty-five thousand dollars (\$25,000) or more against collateral which includes registered or exempted securities, or (2) had outstanding at any time during the calendar quarter fifty thousand dollars (\$50,000) or more in loans against collateral which included registered or exempted securities, shall within thirty (30) days following the end of such calendar quarter file a report on Federal Reserve Form G-2 with the Federal Reserve Bank of the district in which the principal office of the lender is located.

(b) Every lender shall maintain such records as shall be prescribed by the Board of Governors of the Federal Reserve System to enable it to perform the functions conferred upon it by the Securities Exchange Act.

§ 207.4 Miscellaneous provisions.

(a) In determining whether a security is a registered security or a security of the kind described in § 207.2(c)(3), a lender may rely upon the latest list of such securities issued by the Board of Governors of the Federal Reserve System. Copies may be obtained from the Board or from any Federal Reserve Bank.

(b) The renewal or extension of maturity of a loan need not be treated as the making of a loan if the amount of the loan is not increased except by the addition of interest or service charges on the loan or of taxes on transactions in connection with the loan.

(c) Nothing in this part shall be construed to prohibit withdrawal or substitution of securities to enable a borrower to participate in a reorganization.

(d) Failure to comply with this part due to a mistake made in good faith in determining, recording, or calculating any loan, balance, market price, or loan value, or other similar matter, shall not constitute a violation of this part if promptly after discovery of the mistake the lender takes whatever action is practicable to remedy the noncompliance.

(e) No lender shall perform any services in respect to a loan which is secured directly or indirectly by any registered security unless such loan is made and maintained in conformity with the provisions of this part.

(f) A lender may arrange for the extension or maintenance of credit by any person upon the same terms and conditions as those upon which the lender, under the provisions of this part, may

himself extend or maintain such credit, but only upon such terms and conditions, except that this limitation shall not apply with respect to the arranging by a lender for a bank subject to Part 221 of this chapter (Regulation U) to extend or maintain credit on registered securities or exempted securities.

§ 207.5 Supplement.

(a) *Maximum loan value of registered equity securities.* For the purpose of § 207.1, the maximum loan value of any registered equity security shall be 30 percent of its current market value, as determined by any reasonable method.

(b) *Retention requirement.* For the purpose of § 207.1, in the case of a loan which would exceed the maximum loan value of the collateral following a withdrawal of collateral, the "retention requirement" of a registered equity security shall be 70 percent of its current market value, as determined by any reasonable method.

The purpose of the proposed regulation is to bring lenders other than banks, brokers, or dealers within the coverage of the Board's rules governing margin requirements on securities transactions. Available indications suggest that excessive credit may flow into the securities markets from such lenders.

The proposed regulation is designed to apply to any loan by any "person" that is made in the ordinary course of such person's business (1) if the collateral for the loan includes any registered security and (2) if the purpose of the loan is to purchase or carry any registered security (referred to as a "purpose loan"). The regulation would presume that a loan secured by registered securities was made for the purpose of purchasing or carrying those securities, unless the lender could demonstrate the contrary.

The term "person" would be defined to include, for example, partnerships, tax-exempt organizations, and corporations, and a loan would be considered to be made in the ordinary course of a person's business if it was an event occurring or reasonably expected to occur in the course of any profit-making activity, or the management and preservation of property, or in the case of a lender other than an individual, carrying out an objective for which the lender was formed. A loan by a corporation out of working capital, for example, or made to a key executive to enable him to exercise a stock option, would be subject to the regulation if collateral for the loan included any registered security.

Because of the lack of comprehensive information about lenders who would be subject to the proposed regulation, no lender would be permitted, at least until appropriate information and enforcement techniques had been developed, to make both "purpose" and "non-purpose" loans, or purpose loans secured by both equity and nonequity securities, to the same borrower. However, lenders could make nonpurpose loans, or loans whose collateral did not include any equity securities (a term which, as explained above, would include any security con-

vertible into an equity security), without regard to initial margin requirements.

In addition, lenders would be forbidden to make loans to brokers or dealers except for loans on exempted securities and loans to dealers to aid in the financing of distributions off the exchange. Instances of loans by nonbank sources, made on an unsecured basis to creditors subject to Regulation T, have been reported in the press. The Board considers that such loans constitute a potential source of excessive credit in that they are inherently unstable, and if called in large numbers at or about the same time, might contribute to a market decline.

Except as stated above, same-day substitutions of equity collateral, or of non-security collateral, securing a regulated loan by a Regulation G lender, would be permitted to the same extent as under Regulation U. Regulation G would also contain retention and withdrawal restrictions on undermargined accounts comparable to those in T and U.

Under Regulation G, any lender who after today makes any loan that would be subject to the regulation would, if the regulation is adopted, have to file a registration statement with the Federal Reserve Bank in whose district the lender's head office is located. This statement would have to be filed by the effective date of the regulation, 30 days after adoption. A form for the registration statement would be promulgated at the time of adoption. Lenders would also be required to file periodic reports and keep their records in such a way that examiners could verify the accuracy of the registration statement and the periodic reports.

In general, Regulation G would place lenders who were subject to it on an equal footing with other regulated lenders as to such matters as renewals and extensions of loans, permitting withdrawals or substitutions of collateral to enable borrowers to participate in reorganizations, and the correction of certain bookkeeping errors. However, the regulation would not permit the transfer of regulated loans between one lender and another, or one borrower and another, nor would it provide special terms for subscription loans. It is believed that most lenders would have little occasion to make use of such provisions, and that the recordkeeping and reporting problems of lenders would be unduly complicated if such provisions were included in the regulation.

Foreign lenders making loans that are used to purchase or carry securities in this country would be subject to Regulation G. In most such cases, as well as in many instances involving domestic lenders subject to the regulation, a reliable agency in this country, usually but not always a bank, must be employed to hold the collateral for the loan, effect substitutions, collect interest, and otherwise represent the interest of the lender. Accordingly, a lender would be prohibited from performing any services in respect to a loan that was secured directly or indirectly by any registered security unless the loan was made and maintained

in conformity with the requirements of the regulation. (A corresponding provision is proposed for insertion into Regulation U; Regulation T already forbids brokers or dealers to perform such services.)

This notice is published pursuant to section 553(b) of title 5, United States Code, and § 262.2(a) of the rules of procedure of the Board of Governors of the Federal Reserve System (12 CFR 262.2(a)).

To aid in the consideration of this matter by the Board, interested persons are invited to submit, in writing, relevant data, views, or arguments. Such material should be sent to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 20, 1967. Under the Board's rules regarding availability of information (12 CFR 261), such materials will be made available for inspection and copying to any person upon request unless the person submitting the material requests that it be considered confidential.

Dated at Washington, D.C., this 20th day of October 1967.

By order of the Board of Governors.

[SEAL] MERRITT SHERMAN,
Secretary.

[F.R. Doc. 67-12620; Filed, Oct. 25, 1967;
8:45 a.m.]

[12 CFR Part 220]

[Reg. T]

CREDIT BY BROKERS, DEALERS, AND
MEMBERS OF NATIONAL SECURITIES EXCHANGES

Notice of Proposed Rule Making

The Board of Governors is considering amending Part 220 in the following respects:

1. Section 220.2(a) would be amended and a new paragraph (f) would be added to read as follows:

§ 220.2 Definitions.

(a) The terms "person", "member", "broker", "dealer", "buy", "purchase", "sale", "sell", "security", "equity security", and "bank" have the meanings given them in section 3(a) of the Act (15 U.S.C. 78c(a)).

(f) The term "nonequity security" means any security other than an equity security or an exempted security.

2. Section 220.3 (a), (b), (c), (e), and (f) would be amended to read as follows:

§ 220.3 General accounts.

(a) *Contents of general account.* All financial relations between a creditor and a customer, whether recorded in one record or in more than one record, shall be included in and be deemed to be parts of the customer's general account with the creditor, except that the relations which § 220.4 permits to be included in

any special account provided for by that section may be included in the appropriate special account, and all transactions in commodities, and, except to the extent provided in paragraph (b)(2) of this section, all transactions in non-equity securities, exempted securities, and in other securities having no loan value in a general account under the provisions of paragraph (c) of this section and § 220.8 (except unissued securities, short sales, and purchases to cover short sales) shall be included in the appropriate special account provided for by § 220.4. During any period when § 220.8 specifies that registered equity securities shall have no loan value in a general account, any transaction consisting of a purchase of a security other than a purchase of a security to reduce or close out a short position shall be effected in the special cash account provided for by § 220.4(c) or in some other appropriate special account provided for by § 220.4.

(b) *General rule.* (1) A creditor shall not effect for or with any customer in a general account any transaction which in combination with the other transactions effected in the account on the same day, creates an excess of the adjusted debit balance of the account over the maximum loan value of the securities in the account, or increases any such excess, unless in connection therewith the creditor obtains, as promptly as possible and in any event before the expiration of 5 full business days following the date of such transaction, the deposit into the account of cash or securities in such amount that the cash deposited plus the maximum loan value of the securities deposited equals or exceeds the excess so created or the increase so caused.

(2) Except as permitted in this subparagraph, no withdrawal of cash or registered or exempted securities shall be permissible if the adjusted debit balance of the account would exceed the maximum loan value of the securities in the account after such withdrawal. The exceptions are available only in the event no cash or securities need to be deposited in the account in connection with a transaction on a previous day and none would need to be deposited thereafter in connection with any withdrawal of cash or securities on the current day. The permissible exceptions are (i) registered nonequity or exempted securities held in the account on (effective date) may be withdrawn upon the deposit in the account of cash (or registered equity securities counted at their maximum loan value) at least equal to the "retention requirement" of such withdrawn securities, or (ii) registered equity securities may be withdrawn upon the deposit in the account of cash (or registered equity securities counted at their maximum loan value) at least equal to the "retention requirement" of those securities, or (iii) cash may be withdrawn upon the deposit in the account of registered equity securities having a maximum loan value at least equal to the amount of cash withdrawn, or (iv) upon the sale (other than

the short sale) of registered equity securities in the account, there may be withdrawn in cash an amount equal to the difference between the current market value of the securities sold and the "retention requirement" of those securities, or (v) upon the sale (other than the short sale) or a registered nonequity security or an exempted security that was held in the account on (effective date) there may be withdrawn in cash an amount equal to the difference between the current market value of the securities sold and the "retention requirement" of those securities. The "retention requirement" of an exempted security held in the account on (effective date) is the same as its maximum loan value as determined by the creditor in good faith, and the "retention requirement" of a registered nonequity security held in the account on (effective date) and of a registered equity security are prescribed from time to time in § 220.8(c) (the supplement to this Regulation T).

(3) Rules for computing the maximum loan value of the securities in a general account and the adjusted debit balance of such an account are provided in paragraphs (c) and (d) of this section, and certain modifications of and exceptions to the general rule stated in this paragraph are provided in the subsequent paragraphs of this section and in § 220.6.

(c) *Maximum loan value and current market value.* (1) The maximum loan value of the securities in a general account is the sum of the maximum loan values of the individual securities in the account, including securities (other than unissued securities) bought for the account but not yet debited thereto, but excluding securities sold for the account whether or not payment has been credited thereto.

(2) Except as otherwise provided in this paragraph, the maximum loan value of a security in a general account shall be such maximum loan value as the Board shall prescribe for general accounts from time to time in § 220.8. No collateral other than an exempted security or a registered nonequity security held in the account on (effective date) and a registered equity security, shall have any loan value in a general account.

(3) A warrant or certificate which evidences only a right to subscribe to or otherwise acquire any security and which expires within ninety days of issuance shall have no loan value in a general account; but, if the account contains the security to the holder of which such warrant or certificate has been issued and such warrant or certificate is held in the appropriate account under § 220.4, the current market value of such security (if such security be a registered security) shall, for the purpose of calculating its maximum loan value, be increased by the current market value of such warrant or certificate.

(4) For the current market value of a security throughout the day of its purchase or sale, the creditor shall use its total cost or the net proceeds of its

sale, as the case may be, and at any other time shall use the closing sale price of the security on the preceding business day as shown by any regularly published reporting or quotation service. In the absence of any such closing sale price, the creditor may use any reasonable estimate of the market value of such security as of the close of business on such preceding business day.

(e) *Liquidation in lieu of deposit.* In any case in which the deposit required by paragraph (b) of this section, or any portion thereof, is not obtained by the creditor within the 5-day period specified therein, registered nonexempted securities shall be sold (or, to the extent that there are insufficient registered nonexempted securities in the account, other liquidating transactions shall be effected in the account), prior to the expiration of such 5-day period, in such amount that the resulting decrease in the adjusted debit balance of the account exceeds, by an amount at least as great as such required deposit or the undeposited portion thereof, the "retention requirement" of any registered or exempted securities sold.

(f) *Extensions of time.* In exceptional cases, the 5-day period specified in paragraph (b) of this section may, on application of the creditor, be extended for one or more limited periods commensurate with the circumstances by any regularly constituted committee of a national securities exchange having jurisdiction over the business conduct of its members, of which exchange the creditor is a member or through which his transactions are effected, provided such committee is satisfied that the creditor is acting in good faith in making the application and that the circumstances are in fact exceptional and warrant such action.

3. Section 220.4(h) would be amended and a new paragraph (i) would be added to read as follows:

§ 220.4 Special accounts.

(h) *Special subscriptions account.* In a special subscriptions account a creditor may effect and finance the acquisition of a registered security for a customer through the exercise of a right to acquire such security which is evidenced by a warrant or certificate issued to stockholders and expiring within 90 days of issuance, and such special subscriptions account shall be subject to the same conditions to which it would be subject if it were a general account except that:

(1) Each such acquisition shall be treated separately in the account, and prior to initiating the transaction the creditor shall obtain a deposit of cash in the account such that the cash deposited plus the maximum loan value of the securities so acquired equals or exceeds the subscription price, giving effect to a minimum loan value for the securities so acquired of 75 percent of their current market value as determined by any reasonable method;

(2) After October 20, 1967, at the time when a loan is made pursuant to this paragraph, the creditor shall compute the amount by which the loan exceeds the maximum loan value of the collateral as prescribed by § 220.8 and the customer shall reduce the loan by an amount equal to one-fourth of such sum by the end of each of the four succeeding 3-calendar-month periods or until the loan is equal to such maximum loan value, whichever shall occur first, and, if the creditor fails to obtain the required reduction with respect to a particular acquisition within 5 full business days after the reduction is due, the creditor shall promptly sell the collateral so acquired: *Provided, That*, as to loans made between October 20, 1967, and (effective date), such four succeeding periods shall begin on (effective date); and

(3) The creditor shall not permit any withdrawal of cash or securities from the account so long as there is a debit balance in the account, except that when the debit connected with a given acquisition of securities in the account has become equal to or less than the maximum loan value of such securities as prescribed for general accounts (or in connection with an acquisition after October 20, 1967, the requirements of subparagraph (2) of this paragraph have been fulfilled), such securities may be transferred to the general account together with any remaining portion of such debit.

In order to facilitate the exercise of a right in accordance with the provisions of this paragraph, a creditor may permit the right to be transferred from a general account to the special subscriptions account without regard to any other requirement of this part.

(i) *Special bond account.* In a special bond account a creditor may effect and finance transactions in exempted securities and registered nonequity securities for any customer.

4. Section 220.8 (the supplement to Regulation T) would be amended to read as follows:

§ 220.8 Supplement.

(a) *Maximum loan value for general accounts.* The maximum loan value of securities in a general account subject to § 220.3 shall be

(1) Of a registered nonequity security held in the account on (effective date) and of a registered equity security, 30 percent of the current market value of the security and

(2) Of an exempted security held in the account on (effective date) the maximum loan value of the security as determined by the creditor in good faith.

(b) *Margin required for short sales in general accounts.* The amount to be included in the adjusted debit balance of a general account, pursuant to § 220.3 (d) (3), as margin required for short sales of securities (other than exempted securities) shall be 70 percent of the current market value of each such security.

(c) *Retention requirement for general accounts.* In the case of a general account which would have an excess of the adjusted debit balance of the account over the maximum loan value of the securities in the account following a withdrawal of cash or securities from the account, pursuant to § 220.3 (b) (2), the "retention requirement" of an exempted security held in the account on (effective date) shall be equal to its maximum loan value as determined by the creditor in good faith, and the "retention requirement" of a registered nonequity security held in the account on (effective date) and of a registered equity security shall be 70 percent of the current market value of the security.

(d) *Securities having no loan value in general account.* No security other than an exempted security or a registered nonequity security held in the account on (effective date) and a registered equity security, shall have any loan value in a general account.

A principal purpose of these amendments is to change certain provisions through which excessive credit may be flowing into the securities markets. The changes that would be made to accomplish this purpose are described in the accompanying notice of proposed rule making with respect to amendments to Regulation U.

Another purpose of these amendments is to give creditors subject to Regulation T 5 full business days in which to obtain any additional deposit of margin required in connection with transactions in a general account. This is 1 day more than the four presently permitted under the regulation. Such change appears desirable in order to relieve the pressure on bookkeeping departments of brokerage firms by ensuring that a weekend will always be included in the period of time within which the required deposit must be obtained.

This notice is published pursuant to section 553(b) of title 5, United States Code, and § 262.2(a) of the rules of procedure of the Board of Governors of the Federal Reserve System (12 CFR 262.2 (a)).

To aid in the consideration of this matter by the Board, interested persons are invited to submit, in writing, relevant data, views, or arguments. Such material should be sent to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 20, 1967. Under the Board's rules regarding availability of information (12 CFR 261), such materials will be made available for inspection and copying to any person upon request unless the person submitting the material requests that it be considered confidential.

Dated at Washington, D.C., this 20th day of October 1967.

By order of the Board of Governors.

[SEAL] MERRITT SHERMAN,
Secretary.

[F.R. Doc. 67-12631; Filed, Oct. 25, 1967;
8:45 a.m.]

12 CFR Part 221 I

[Reg. U]

LOANS BY BANKS FOR PURPOSE OF PURCHASING OR CARRYING REGISTERED STOCKS

Notice of Proposed Rule Making

The Board of Governors is considering amending Part 221 in the following respects:

1. Section 221.1 would be amended to read as follows:

§ 221.1 General rule.

(a) No bank shall extend any credit¹ secured directly or indirectly by any stock² for the purpose of purchasing or carrying any stock registered on a national securities exchange³ (and no bank shall make any loan described in § 221.3(q) regardless of whether or not such loan is secured by any stock) in an amount exceeding the maximum loan value of the collateral, as prescribed from time to time for stocks in § 221.4 (the Supplement to this Regulation U) and as determined by the bank in good faith for any collateral other than stocks: *Provided*, Any collateral other than stock shall have loan value only as collateral for a loan described in § 221.3(s), and not for any other loan subject to this part unless held as collateral for such loan on October 20, 1967, and continuously thereafter.

(b) Except as permitted in paragraph (c) of this section, while a bank maintains any loan subject to this part, whenever made, the bank shall not at any time permit any withdrawal or substitution of collateral unless either (1) the loan would not exceed the maximum loan value of the collateral after such withdrawal or substitution, or (2) the loan is reduced by at least the amount by which the maximum loan value of any collateral deposited is less than the "retention requirement" of any collateral withdrawn. The "retention requirement" of collateral other than stock is the same as its maximum loan value and the "retention requirement" of collateral consisting of stock is prescribed from time to time in § 221.4 (the Supplement to this Regulation U).

(c) A bank may permit a substitution of registered nonexempted stock effected by a purchase and sale on orders executed within the same day provided (1) if the proceeds of the sale exceed the total cost of the purchase, the loan is reduced by at least an amount equal to the "retention requirement" with respect to the sale less the "retention requirement" with respect to the purchase, or (2) if the total cost of the purchase exceeds the proceeds of the sale, the loan may be increased by an amount no greater than the maximum loan value of the stock purchased less the maximum loan value of the stock sold. If the maxi-

¹ A "credit" is sometimes referred to hereinafter as a "loan".

² As defined in § 221.3(1).

³ Commonly referred to as a "purpose loan". See §§ 221.3(b) (2) and (3) and (1).

imum loan value of the collateral securing the loan has become less than the amount of the loan, the amount of the loan may nonetheless be increased if there is provided additional collateral having maximum loan value at least equal to the amount of the increase.

(d) For the purpose of this part, except for a loan subject to § 221.3(s), the entire indebtedness of any borrower to any bank incurred at any time for the purpose of purchasing or carrying stocks registered on a national securities exchange shall be considered a single loan; and all the collateral securing such indebtedness shall be considered in determining whether or not the loan complies with this part.

§ 221.2 [Amended]

2. Section 221.2 would be amended by (1) eliminating the paragraph enumerated (b); (2) redesignating paragraphs (c), (d), (e), (f), (g), (h), (i), (j), and (k) as paragraphs (b), (c), (d), (e), (f), (g), (h), (i), and (j), respectively; and (3) amending the second proviso in redesignated paragraphs (e), (f), and (g) to read: "And provided further, That it is either (1) made to a broker or dealer, or (2) made for a purpose other than to enable the borrower to pay for stock purchased in an account subject to Part 220 of this chapter."

3. Section 221.3 (h), (c), (l), (p), and (r) would be amended and new paragraphs (s), (t), and (u) would be added to read as follows:

§ 221.3 Miscellaneous provisions.

(b) (1) No loan, however it may be secured, need be treated as a loan for the purpose of "carrying" a stock registered on a national securities exchange unless the loan is as described in this paragraph or the purpose of the loan is to enable the borrower to reduce or retire indebtedness which was originally incurred to purchase such a stock, or, if he be a broker or a dealer, to carry such stocks for customers.

(2) A loan for the purpose of purchasing or carrying a "redeemable security" (i.e., a redeemable proportionate interest in the issuer's assets) issued by an "open-end company," as defined in the Investment Company Act of 1940, whose assets customarily include stocks registered on a national securities exchange, shall be deemed to be for the purpose of purchasing or carrying a stock so registered.

(3) A loan made after October 20, 1967, for the purpose of purchasing or carrying a "security convertible into a stock registered on a national securities exchange" shall be deemed to be for the purpose of purchasing or carrying a stock so registered.

(c) In determining whether a security is a "stock registered on a national securities exchange" or a "redeemable security" described in paragraph (b) (2) of this section, a bank may rely upon any reasonably current record of such securities that is published or specified in a publication of the Board of Governors

of the Federal Reserve System. A bank may also rely upon such a record to determine whether a stock into which a security is convertible is a stock registered on a national securities exchange.

(1) The term "stock" includes any security commonly known as a stock, any voting trust certificate or other instrument representing such a security, any security convertible into such security, certificate, or other instrument, and any warrant or right to subscribe to or purchase such a security.

(p) A loan need not comply with the other requirements of this part if it is to enable the borrower to acquire a stock by exercising a right to acquire such stock which is evidenced by a warrant or certificate issued to stockholders and expiring within 90 days of issuance: *Provided*, That (1) each such acquisition under this paragraph shall be treated separately, and the loan when made shall not exceed 75 percent of the current market value of the stock so acquired as determined by any reasonable method, (2) after October 20, 1967, at the time a loan is made pursuant to this paragraph, the bank shall compute the amount by which the loan exceeds the maximum loan value of the collateral as prescribed by § 221.4 and the borrower shall reduce the loan by an amount equal to one-fourth of such sum by the end of each of the four succeeding 3-calendar-month periods or until the loan is equal to the maximum loan value of the stock, whichever shall occur first, and if the borrower shall fail to make the required reduction with respect to a particular acquisition within 5 full business days after such payment is due, the bank shall promptly sell the collateral so acquired: *Provided*, That, as to loans made between October 20, 1967, and (effective date) such four succeeding periods shall begin on (effective date), and (3) while the borrower has any loan outstanding at the bank under this paragraph no withdrawal or substitution of stock used to make such loan shall be permissible, except that when the loan has become equal to or less than the maximum loan value of the stock as prescribed for § 221.1 in § 221.4 (or with respect to a loan made after October 20, 1967, the requirements of the preceding clause have been fulfilled) the stock and indebtedness may thereafter be treated as subject to § 221.1 instead of this paragraph. In order to facilitate the exercise of a right under this paragraph, a bank may permit the right to be withdrawn from a loan subject to § 221.1 without regard to any other requirement of this part.

(r) (1) If, prior to and including October 20, 1967, but on or after June 15, 1959, a loan was made for the purpose of purchasing or carrying a security other than a stock registered on a national securities exchange and the loan is secured by the security, but subsequently there is substituted as direct or indirect collateral for the loan a stock so regis-

tered which is acquired by the borrower through the conversion or exchange of the security pursuant to its terms, the loan shall thereupon be deemed to be for the purpose of purchasing or carrying a stock so registered. In any such case, the amount of the outstanding loan, or such amount plus any increase therein to enable the borrower to acquire the stock so registered, shall not be permitted on the date such stock is substituted as collateral to exceed the maximum loan value of the collateral for the loan on such date, and thereafter such indebtedness shall be treated as subject to § 221.1: *Provided, however*, That any reduction in the loan or deposit of collateral required on that date to meet this requirement may be brought about within 30 days of such substitution.

(2) If, after October 20, 1967, but prior to (effective date), a loan is made by a bank for the purpose of purchasing or carrying a "security convertible into a stock registered on a national securities exchange", the amount of the outstanding loan shall not be permitted on (effective date) to exceed the maximum loan value of the collateral for the loan on such date: *Provided, however*, That any reduction in the loan or deposit of collateral required to meet this requirement may be brought about within 30 days of (effective date).

(s) A bank may make a loan for the purpose of purchasing or carrying a stock registered on a national securities exchange secured by collateral other than stock, and, in the case of such a loan, the maximum loan value of the collateral shall be as determined by the bank in good faith.

(t) No bank shall perform any services in respect to a loan which is for the purpose of purchasing or carrying a stock registered on a national securities exchange and is secured by any stock unless such loan is made and maintained in conformity with the provisions of Part 207, 220, or this 221 of this chapter (Regulation G, T, or U).

(u) No bank shall arrange for the extension or maintenance of any credit for the purpose of purchasing or carrying any stock registered on a national securities exchange, except upon the same terms and conditions on which the bank itself could extend or maintain such credit under the provisions of this part.

A principal purpose of these amendments is to change certain provisions through which excessive credit may be flowing into the securities markets. The changes relate principally to the following:

(1) *Special subscription accounts.* Under the current margin regulations, special subscription accounts are intended to facilitate equity financing by corporations, and to help stockholders retain their proportionate interest in the issuer, by making it possible to borrow for the purpose of exercising subscription rights on more favorable terms than those generally available under the margin regulations. The Board's rules relating to such accounts contemplate, however, that such

loans shall be brought up to a fully margined status within 9 months.

It has come to the Board's attention that in many instances this improvement in the margin status of subscription account loans does not take place, leaving the account vulnerable to margin calls in any subsequent general stock price decline, and the proposed amendments relating to such accounts would require that the difference between the amount of the loan and the maximum loan value of the securities serving as collateral for the loan shall be paid off in four equal quarterly installments (unless the loan becomes fully margined before this has been done, due to a change in margin requirements or an increase in the loan value of the collateral), and that the loan shall then be eligible for transfer to the general (margin) account. If the borrower failed to make a required payment, the loan would be liquidated.

(2) *Convertible bonds.* At present, Regulation U permits a bank to lend as much as it sees fit against nonequity securities (chiefly bonds), but all registered securities, whether equities or non-equities, are subject to ordinary margin requirements under T. At the same time, there appears to have been a substantial increase in credit extended by banks to finance the purchase of certain convertible bonds. The present § 221.3(r) of U provides that a bank loan to purchase a convertible bond, where the bond is pledged to secure the loan, must be brought into conformity with ordinary margin requirements within 30 days after conversion takes place.

The proposed amendments would treat any security convertible into a registered stock as "stock" for purposes of Regulation U, so that loans by banks to purchase or carry such securities would be subject to ordinary margin requirements from the outset.

At the same time, the proposed changes would give good faith loan value to non-convertible registered bonds under Regulation T, thus removing, to the extent permitted by section 7 of the Securities Exchange Act of 1937, the unequal treatment of banks, brokers, and dealers, under the two regulations.

(3) *Separate bond accounts.* Under the law, the Board has authority to re-

quire that margin accounts maintain minimum margin status at all times, but for reasons discussed, for example, in the Special Study of the Securities Markets, submitted to Congress in 1963 by the Securities and Exchange Commission, it has not done so. However, in 1959, the Board adopted the so-called "retention requirement" under which it was expected that undermargined accounts would gradually tend to be brought into conformity with the current level of margin requirements, thus reducing the aggregate amount of credit in the market due to existing accounts, and minimizing to some extent the unfairness to an investor newly entering the market of requiring him to put up more margin than is demanded of an investor with an existing account.

In order to provide some investment flexibility in undermargined accounts, the Board permitted substitutions by means of offsetting purchases and sales, executed on the same day, without the deposit of additional margin—the "same-day" rule. However, abuses have occurred through substitution into bonds or exempted securities under this rule.

In order to prevent abuses of this kind, the proposed amendments would require that collateral consisting of registered nonconvertible bonds or exempted securities be segregated in a separate account, under a new § 221.3(s). Such collateral would have good-faith loan value but no stock (and no securities convertible into stock) could be held as collateral for a loan in such an account, and there could be no exchange of collateral between the "bond account" and the general, or margin, account under either regulation. To minimize the burden of having to transfer all nonequity and exempted securities already held in margin accounts, as to Regulation U, only transactions after October 20, 1967, and as to Regulation T, after the effective date of the amendments would be affected.

(4) *Additional proposed changes in Regulation U.* The "same-day" rule discussed above does not appear explicitly in Regulation U. The proposed changes would insert into the regulation the substance of an interpretation published in 1959 Federal Reserve Bulletin 590 (12

CFR 221.111) stating that the "same-day" rule obtains under U.

In addition, the proposed changes would close a loophole in the present §§ 221.2 (f), (g), and (h) of Regulation U which appears to permit a bank to make a "clearance loan" in respect to transactions with a broker that are carried in some account other than the special cash account. The changes would make it clear that such loans are not exempt if made to enable a borrower to pay for equity securities purchased in any account subject to Regulation T.

A proposed new § 221.3(t) of Regulation U would forbid a bank to perform services in connection with any loan that is for the purpose of purchasing or carrying equity securities, and secured by such securities, unless the loan is made and maintained in conformity with Part 207, 220, or 221 (Regulation G, T, or U).

Finally, a new § 221.3(u) of Regulation U would prohibit a bank from arranging credit for a customer on terms more favorable than could be provided by the bank itself.

This notice is published pursuant to § 553(b) of Title 5, United States Code, and § 262.2(a) of the rules of procedure of the Board of Governors of the Federal Reserve System (12 CFR 262.2(a)).

To aid in the consideration of this matter by the Board, interested persons are invited to submit, in writing, relevant data, views, or arguments. Such material should be sent to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 20, 1967. Under the Board's rules regarding availability of information (12 CFR Part 261), such materials will be made available for inspection and copying to any person upon request unless the person submitting the material requests that it be considered confidential.

Dated at Washington, D.C., this 20th day of October 1967.

By order of the Board of Governors.

[SEAL]

MERRITT SHERMAN,
Secretary.

[FR. Doc. 67-12622; Filed, Oct. 25, 1967; 8:45 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A 1382]

ARIZONA

Notice of Proposed Classification of Public Lands for Exchange

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411-18) notice is hereby given of a proposal to classify the public lands described below for exchange to acquire privately owned lands within the boundaries of the Luke Air Force Range. These exchanges would be made under the authority of section 8 of the Taylor Grazing Act of June 28, 1934 (48 Stat. 1272) as amended by section 3 of the act of June 26, 1936 (49 Stat. 1976; 43 U.S.C. 315g). As used herein "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. Publication of this notice has the effect of segregating the described lands from all forms of appropriation under the public land laws, including the mining and mineral leasing laws.

3. Information concerning these lands and the proposed disposal may be received by inquiry or inspection of records at the Bureau of Land Management, Room 3041, Federal Building, Phoenix or at the Corps of Engineers, 2727 North Central Avenue, Room 402, Phoenix, Ariz.

4. For a period of 60 days from the date of this publication, interested parties may submit comments to the Manager, Phoenix District Office, Bureau of Land Management, Phoenix, Ariz. 85025. A public hearing on the proposed classification will be held at the City-County Library Auditorium, 360 South 3d Avenue, Yuma, Ariz., on November 15, 1967 at 8 p.m.

5. The public lands involved are described as follows:

YUMA-MARICOPA COUNTIES

GILA AND SALT RIVER MERIDIAN, ARIZONA

- T. 4 S., R. 10 W.,
 Sec. 4, E $\frac{1}{2}$ NE $\frac{1}{4}$ and E $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 10, SW $\frac{1}{4}$ SW $\frac{1}{4}$.
 T. 5 S., R. 10 W.,
 Sec. 11, N $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 13, S $\frac{1}{2}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$;
 Sec. 23, NE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 24, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, and E $\frac{1}{2}$ NW $\frac{1}{4}$.
 T. 6 S., R. 11 W.,
 Sec. 1, S $\frac{1}{2}$ SE $\frac{1}{4}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 10, all;
 Sec. 11, S $\frac{1}{2}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ S $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$;

- Sec. 12, E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, and S $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 13, all;
 Sec. 14, all;
 Sec. 17, E $\frac{1}{2}$ SE $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 19, SE $\frac{1}{4}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 23, all;
 Sec. 24, all;
 Sec. 25, N $\frac{1}{2}$;
 Sec. 26, all;
 Sec. 27, all.
 T. 6 S., R. 11 W.,
 Sec. 28, E $\frac{1}{2}$;
 Sec. 29, all;
 Sec. 30, all;
 Sec. 31, all.
 T. 7 S., R. 11 W.,
 Sec. 1, S $\frac{1}{2}$;
 Sec. 6, all;
 Sec. 7, lots 1, 2, 3, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, and NE $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 8, S $\frac{1}{2}$ and NW $\frac{1}{4}$;
 Sec. 9, SW $\frac{1}{4}$;
 Sec. 10, S $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 11, SE $\frac{1}{4}$;
 Sec. 12, S $\frac{1}{2}$ and NE $\frac{1}{4}$;
 Sec. 13, all;
 Sec. 14, NE $\frac{1}{4}$;
 Sec. 15, SE $\frac{1}{4}$;
 Sec. 24, all;
 Sec. 25, all;
 Sec. 30, lots 3, 4, E $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 31, lots 1, 2, 3, 4, E $\frac{1}{2}$, and E $\frac{1}{2}$ W $\frac{1}{2}$.
 T. 6 S., R. 12 W.,
 Sec. 7, lot 4;
 Sec. 9, NW $\frac{1}{4}$;
 Sec. 10, N $\frac{1}{2}$;
 Sec. 25, S $\frac{1}{2}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, and NE $\frac{1}{4}$ NE $\frac{1}{4}$;
 Sec. 26, SE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, and NE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 31, lot 4 and SE $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 33, S $\frac{1}{2}$ S $\frac{1}{2}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 34, S $\frac{1}{2}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, and NE $\frac{1}{4}$ NE $\frac{1}{4}$;
 Sec. 35, NE $\frac{1}{4}$.
 T. 7 S., R. 12 W.,
 Sec. 3, lots 1, 2, 3, 4, S $\frac{1}{2}$, and S $\frac{1}{2}$ N $\frac{1}{2}$;
 Sec. 4, lots 1, 2, 3, 4, S $\frac{1}{2}$ N $\frac{1}{2}$, and S $\frac{1}{2}$;
 Sec. 5, lots 1, 2, 3, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$, and S $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 6, lots 2 through 7, inclusive, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 25, N $\frac{1}{2}$ SE $\frac{1}{4}$ and S $\frac{1}{2}$ S $\frac{1}{2}$;
 Sec. 26, S $\frac{1}{2}$ SE $\frac{1}{4}$ and W $\frac{1}{2}$ W $\frac{1}{2}$;
 Sec. 27, S $\frac{1}{2}$;
 Sec. 28, S $\frac{1}{2}$;
 Sec. 33, all;
 Sec. 34, all;
 Sec. 35, all.
 T. 6 S., R. 13 W.,
 Sec. 17, E $\frac{1}{2}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 18, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 19, S $\frac{1}{2}$ SE $\frac{1}{4}$.
 T. 7 S., R. 13 W.,
 Sec. 1, lots 1, 2, 3, 4, S $\frac{1}{2}$ N $\frac{1}{2}$, and S $\frac{1}{2}$;
 Sec. 3, lot 1, S $\frac{1}{2}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$ NE $\frac{1}{4}$;
 Sec. 7, lot 4, SE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, and NE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 8, S $\frac{1}{2}$ and S $\frac{1}{2}$ NE $\frac{1}{4}$;
 Sec. 9, all.
 T. 6 S., R. 14 W.,
 Sec. 1, all;
 Sec. 12, all;
 Sec. 34, S $\frac{1}{2}$;
 Sec. 35, W $\frac{1}{2}$, NE $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$.
 T. 7 S., R. 14 W.,
 Sec. 3, lots 1, 2, 3, 4, S $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, and SW $\frac{1}{4}$ NE $\frac{1}{4}$;
 Sec. 4, lots 1, 2, 3, 4, S $\frac{1}{2}$, and S $\frac{1}{2}$ N $\frac{1}{2}$;
 Sec. 5, lots 1, 2, 3, 4, S $\frac{1}{2}$ N $\frac{1}{2}$, and N $\frac{1}{2}$ S $\frac{1}{2}$;

- Sec. 13, all;
 Sec. 14, SE $\frac{1}{4}$ and S $\frac{1}{2}$ NE $\frac{1}{4}$;
 Sec. 15, SE $\frac{1}{4}$;
 Sec. 20, NE $\frac{1}{4}$ and S $\frac{1}{2}$;
 Sec. 24, N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 25, N $\frac{1}{2}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$ NE $\frac{1}{4}$;
 Sec. 31, lots 3, 4, E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$, and E $\frac{1}{2}$ NE $\frac{1}{4}$.
 T. 7 S., R. 15 W.,
 Sec. 4, lots 1, 2, 3, 4, S $\frac{1}{2}$, and S $\frac{1}{2}$ N $\frac{1}{2}$;
 Sec. 8, all;
 Sec. 9, NE $\frac{1}{4}$;
 Sec. 10, NE $\frac{1}{4}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ NE $\frac{1}{4}$;
 Sec. 15, N $\frac{1}{2}$ N $\frac{1}{2}$ NE $\frac{1}{4}$;
 Sec. 17, all;
 Sec. 18, lots 1, 2, 3, 4, E $\frac{1}{2}$, and E $\frac{1}{2}$ W $\frac{1}{2}$;
 Sec. 19, lot 1, and NE $\frac{1}{4}$ NW $\frac{1}{4}$.
 T. 8 S., R. 15 W.,
 Sec. 4, lots 1, 2, SE $\frac{1}{4}$ and S $\frac{1}{2}$ NE $\frac{1}{4}$;
 Sec. 9, all;
 Sec. 10, NE $\frac{1}{4}$ and SW $\frac{1}{4}$;
 Sec. 16, NW $\frac{1}{4}$;
 Sec. 20, SW $\frac{1}{4}$;
 Sec. 21, SE $\frac{1}{4}$;
 Sec. 22, S $\frac{1}{2}$;
 Sec. 23, lots 1, 2, 3, 4, E $\frac{1}{2}$, and E $\frac{1}{2}$ W $\frac{1}{2}$;
 Sec. 24, lots 1, 2, 3, 4, W $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ S $\frac{1}{2}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 25, lots 1 through 8, inclusive, N $\frac{1}{2}$ N $\frac{1}{2}$ and SE $\frac{1}{4}$;
 Sec. 26, lots 1 through 9, inclusive, NE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, and SW $\frac{1}{4}$;
 Sec. 27, N $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$ S $\frac{1}{2}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, and NE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 28, all;
 Sec. 29, all.
 T. 7 S., R. 16 W.,
 Sec. 13, all;
 Sec. 21, N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 22, W $\frac{1}{2}$;
 Sec. 23, NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 24, W $\frac{1}{2}$ NW $\frac{1}{4}$ and N $\frac{1}{2}$ NE $\frac{1}{4}$;
 Sec. 28, N $\frac{1}{2}$ N $\frac{1}{2}$ NW $\frac{1}{4}$ and N $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$;
 Sec. 29, NE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ N $\frac{1}{2}$ NW $\frac{1}{4}$, and N $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$;
 Sec. 30, lots 1, 2, E $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$, and N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$.
 T. 7 S., R. 17 W.,
 Sec. 25, all;
 Sec. 33, NE $\frac{1}{4}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$.
 T. 9 S., R. 17 W.,
 Sec. 7, lots 1, 2, N $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$.
 T. 9 S., R. 18 W.,
 Sec. 1, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 11, S $\frac{1}{2}$ S $\frac{1}{2}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 12, N $\frac{1}{2}$;
 Sec. 16, SW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 17, S $\frac{1}{2}$ SW $\frac{1}{4}$.
 T. 8 S., R. 19 W.,
 Sec. 19, NE $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 29, N $\frac{1}{2}$.
 T. 9 S., R. 19 W.,
 Sec. 16, S $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 17, all;
 Sec. 18, lots 1, 2, 3, 4, E $\frac{1}{2}$, and E $\frac{1}{2}$ W $\frac{1}{2}$;
 Sec. 19, lots 1, 2, 3, 4, E $\frac{1}{2}$, and E $\frac{1}{2}$ W $\frac{1}{2}$;
 Sec. 20, all;
 Sec. 21, SE $\frac{1}{4}$, S $\frac{1}{2}$ S $\frac{1}{2}$ NE $\frac{1}{4}$, and E $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$;
 Sec. 22, N $\frac{1}{2}$ N $\frac{1}{2}$ and N $\frac{1}{2}$ S $\frac{1}{2}$ N $\frac{1}{2}$;
 Sec. 23, N $\frac{1}{2}$;
 Sec. 24, lots 1, 2, and W $\frac{1}{2}$ NE $\frac{1}{4}$.
 T. 7 S., R. 20 W.,
 Sec. 29, S $\frac{1}{2}$;
 Sec. 30, lots 3, 4, and SE $\frac{1}{4}$;
 Sec. 33, NW $\frac{1}{4}$ and N $\frac{1}{2}$ SW $\frac{1}{4}$.

T. 8 S., R. 20 W.,
 Sec. 3, S $\frac{1}{2}$;
 Sec. 4, lots 1, 2, S $\frac{1}{2}$ NE $\frac{1}{4}$, and NE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 10, N $\frac{1}{2}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$ NE $\frac{1}{4}$;
 Sec. 11, SW $\frac{1}{4}$;
 Sec. 13, SW $\frac{1}{4}$;
 Sec. 14, N $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, and NE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 24, N $\frac{1}{2}$ NE $\frac{1}{4}$.
 T. 9 S., R. 20 W.,
 Sec. 23, all;
 Sec. 24, all.
 T. 7 S., R. 21 W.,
 Sec. 25, S $\frac{1}{2}$;
 Sec. 26, E $\frac{1}{2}$ SE $\frac{1}{4}$.
 T. 8 S., R. 22 W.,
 Sec. 1, lots 1, 2, 3, 4, S $\frac{1}{2}$, and S $\frac{1}{2}$ N $\frac{1}{2}$;
 Sec. 2, lots 1, 2, S $\frac{1}{2}$ NE $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 11, NE $\frac{1}{4}$;
 Sec. 12, N $\frac{1}{2}$.

This includes 53,674.17 acres of public lands.

For the State Director.

GLENDON E. COLLINS,
Land Office Manager.

OCTOBER 19, 1967.

[F.R. Doc. 67-12633; Filed, Oct. 25, 1967;
 8:46 a.m.]

[R 585]

CALIFORNIA

Notice of Proposed Classification of Public Lands for Multiple-Use Management

OCTOBER 19, 1967.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411-18) and to the regulations in 43 CFR Parts 2410 and 2411, it is proposed to classify for multiple-use management the public lands described in paragraph 3 below, together with any lands therein that may become public lands in the future. As used herein, "Public Lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for Federal use or purpose.

2. Publication of this notice has the effect of segregating the described lands from appropriation only under the agricultural land laws (43 U.S.C. Chs. 7 and 9; 25 U.S.C. sec. 334), from sale under sec. 2455 of the Revised Statutes as amended (43 U.S.C. 1171), and the lands described in paragraph 4 from appropriation under the Mining laws (30 U.S.C. Ch. 2). The lands shall remain open to all other applicable forms of appropriation.

3. The public lands are located in northwestern San Bernardino County and are shown on the Trona Planning Unit Classification Map, which is on file in the Riverside District and Land Office, Bureau of Land Management, Calif.

The overall description of the area is as follows:

MOUNT DIABLO MERIDIAN, CALIFORNIA

SAN BERNARDINO COUNTY

T. 25 S., R. 40 E.,
 Secs. 1, 12, 13, 24, 25, and 36.

T. 26 S., R. 40 E.,
 Secs. 1, 12, 13, 24, 25, and 36.
 T. 27 S., R. 40 E.,
 Secs. 1, 12, 13, 24, 25, and 36.
 T. 28 S., R. 40 E.,
 Secs. 1, 12, 13, 24, 25, and 36.
 T. 25 S., R. 41 E., unsurveyed.
 T. 26 S., R. 41 E.
 T. 27 S., R. 41 E.
 T. 28 S., R. 41 E.
 T. 29 S., R. 41 E.
 T. 30 S., R. 41 E.,
 Secs. 1 to 5, inclusive;
 Sec. 6, W $\frac{1}{2}$;
 Sec. 7, NE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, and SE $\frac{1}{4}$;
 Secs. 8 to 36, inclusive.

T. 31 S., R. 41 E.
 T. 32 S., R. 41 E.
 T. 25 S., R. 42 E., partly unsurveyed.
 T. 26 S., R. 42 E.
 T. 27 S., R. 42 E.,
 Secs. 1 to 12, inclusive;
 Secs. 16 to 21, inclusive;
 Secs. 25 and 26;
 Secs. 29 to 32, inclusive;
 Secs. 35 and 36.

T. 28 S., R. 42 E.
 T. 29 S., R. 42 E.
 T. 30 S., R. 42 E.
 T. 31 S., R. 42 E.
 T. 32 S., R. 42 E.
 T. 25 S., R. 43 E.
 T. 26 S., R. 43 E.
 T. 27 S., R. 43 E.,
 Secs. 1 and 2;
 Secs. 6 and 7;
 Secs. 9 to 36, inclusive.
 T. 28 S., R. 43 E.
 T. 29 S., R. 43 E.
 T. 30 S., R. 43 E.
 T. 31 S., R. 43 E.
 T. 32 S., R. 43 E.
 T. 25 S., R. 44 E.,
 Secs. 4 to 9, inclusive;
 Secs. 16 to 21, inclusive;
 Secs. 28 to 33, inclusive.

T. 26 S., R. 44 E.
 T. 27 S., R. 44 E.
 T. 28 S., R. 44 E.
 T. 29 S., R. 44 E.
 T. 30 S., R. 44 E.
 T. 31 S., R. 44 E.,
 Secs. 1 to 29, inclusive;
 Secs. 31 to 36, inclusive.

T. 25 S., R. 45 E.
 T. 26 S., R. 45 E.
 T. 27 S., R. 45 E.
 T. 28 S., R. 45 E.
 T. 29 S., R. 45 E.
 T. 30 S., R. 45 E.
 T. 31 S., R. 45 E.
 T. 25 S., R. 46 E.
 T. 26 S., R. 46 E.
 T. 27 S., R. 46 E.
 T. 28 S., R. 46 E.
 T. 29 S., R. 46 E.
 T. 30 S., R. 46 E.
 T. 31 S., R. 46 E.
 T. 25 S., R. 47 E.
 T. 26 S., R. 47 E.
 T. 27 S., R. 47 E.
 T. 28 S., R. 47 E.
 T. 29 S., R. 47 E.
 T. 30 S., R. 47 E.
 T. 31 S., R. 47 E.

SAN BERNARDINO MERIDIAN, CALIFORNIA SAN BERNARDINO COUNTY

T. 13 N., R. 1 E.
 T. 14 N., R. 1 E.,
 Secs. 15 to 22, inclusive;
 Secs. 25 to 36, inclusive.

The public lands proposed to be classified aggregate approximately 406,642 acres.

4. As provided in paragraph 2 above, the following lands are further segregated from appropriation under the mining laws (totaling approximately 5,510 acres).

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 27 S., R. 42 E.,
 Sec. 13;
 Sec. 14;
 Sec. 15, S $\frac{1}{2}$ S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 22, NE $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 23, E $\frac{1}{2}$, NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 24, NW $\frac{1}{4}$;
 Sec. 27, NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, SE $\frac{1}{4}$;
 Sec. 28, E $\frac{1}{2}$ E $\frac{1}{2}$;
 Sec. 33, NE $\frac{1}{4}$ NE $\frac{1}{4}$;
 Sec. 34, N $\frac{1}{2}$ NW $\frac{1}{4}$.
 T. 27 S., R. 43 E. (unsurveyed),
 Sec. 3;
 Sec. 4;
 Sec. 5, E $\frac{1}{2}$, and that part of W $\frac{1}{2}$ lying east of the centerline of the Trona Railway right-of-way;
 Sec. 8, NE $\frac{1}{4}$, and that part of the E $\frac{1}{2}$ NW $\frac{1}{4}$ lying east of the centerline of the Trona Railway right-of-way.
 T. 31 S., R. 45 E.,
 Sec. 30, S $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$.

5. For a period of 60 days from the date of publication of this notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions, or objections in connection with the proposed classification may present their views in writing to the Manager, Riverside District and Land Office, Bureau of Land Management, 1414 University Avenue, Post Office Box 723, Riverside, Calif. 92502, or at the public hearing.

6. A public hearing on the proposed classification will be held on November 30, 1967, at 10 a.m. in the County Sheriff's Office Substation, Mountain View Avenue, at Barstow, Calif.

For the State Director.

HALL H. McCLAIN,
Manager,

Riverside District and Land Office.

[F.R. Doc. 67-12632; Filed, Oct. 25, 1967;
 8:46 a.m.]

[Serial No. N-619]

NEVADA

Notice of Classification

OCTOBER 20, 1967.

Pursuant to section 7 of the Taylor Grazing Act of June 28, 1934, 43 U.S.C. 315g, the below listed lands are hereby classified for sale under the Recreation and Public Purposes Act of June 14, 1926, as amended, 43 U.S.C. 869. This notice is published in compliance with section 2 of the Classification and Multiple Use Act of September 19, 1964, 43 U.S.C. 1412.

These lands are segregated from all other forms of disposal, including the mining laws, 43 CFR 2411.1-2 and 2232.1-4(a).

The lands border Valley of Fire State Park in Clark County, Nev. They are vacant public domain, unsuited to agri-

culture and not needed for any Federal program.

One letter of protest was received following publication of the notice of proposed classification (32 F.R. 110) of the lands hereinafter described.

The protestant stated: (1) He has a grazing permit which includes the lands involved; (2) the State of Nevada already has more land in Valley of Fire State Park than it can use or develop; and (3) he fails to see any advantage to taxpayers in changing the status of the land from useful purpose to restricted idleness.

The protest must be dismissed since: (1) The value of the grazing permit as to the lands affected by this classification amounts to 54 animal unit months, or 5 head of livestock on an annual basis; this private use is outweighed by the public recreational use and enjoyment provided to nearly 150,000 park visitors annually; (2) a review of the State's plan indicates that the State of Nevada can develop and use for park purposes the lands included in this notice of classification; and (3) Nevada's voters have, by their support of the State parks' program, approved the use of that portion of their tax funds devoted to State park purposes. The State Legislature in 1965 passed a resolution providing funds for the acquisition of lands for the Valley of Fire State Park.

Acquisition of these lands by the Nevada State Park System is consistent with the system's continuing program to develop recreation and visitor facilities and protect archeological and recreational values of Valley of Fire State Park.

The notice of proposed classification (32 F.R. 110) rejected Nevada State Park System's petition-application as to sec. 25, T. 17 S., R. 67 E., MD Mer., Nevada, at the request of the Bureau of Reclamation. Said sec. 25 is part of a reclamation withdrawal made by Secretarial Order on March 31, 1933. The Bureau of Reclamation has since determined there is no need to retain the lands in sec. 25 and no longer objects to the disposition. The subject sec. 25 is therefore included in this notice of classification.

Nevada State Park System is entitled to the preference provided by section 7 of the Taylor Grazing Act of June 28, 1934, as to the lands described below.

The lands affected by this proposal are described as follows:

MOUNT DIABLO MERIDIAN, NEVADA

- T. 16 S., R. 66 E.,
Sec. 25, S $\frac{1}{2}$;
Sec. 26, NE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$.
- T. 16 S., R. 67 E.,
Sec. 29, W $\frac{1}{2}$ W $\frac{1}{2}$;
Sec. 30, all.
- T. 17 S., R. 66 E.,
Sec. 12, lots 1, 4, 10;
Sec. 13, lots 1, 2, 3, 8, 9, 10, 11, 16, 17;
Sec. 24, lots 1, 2;
Sec. 26, lots 12, 13;
Sec. 35, lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11,
S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$.
- T. 17 S., R. 66 $\frac{1}{2}$ E.,
Sec. 18, lots 1, 2, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$;
Sec. 19, lots 2, 3.
- T. 17 S., R. 67 E.,
Sec. 24, lots 1, 2, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 25, all.

T. 18 S., R. 66 E. (partly surveyed),

- Sec. 1, W $\frac{1}{2}$;
- Sec. 2, all;
- Sec. 11, N $\frac{1}{2}$ N $\frac{1}{2}$;
- Sec. 12, N $\frac{1}{2}$ NW $\frac{1}{4}$.

The areas described aggregate approximately 4,557 acres.

For a period of 30 days from the date of this publication, interested parties may submit comments to the Secretary of the Interior, LLM, 721, Washington, D.C. 20240. (43 CFR 2411.12(d)).

For the State Director,

ROLLA E. CHANDLER,
Land Office Manager.

[F.R. Doc. 67-12634; Filed, Oct. 25, 1967,
8:46 a.m.]

NEVADA

Order Opening Lands to Entry and Patenting

OCTOBER 20, 1967.

1. In accordance with the provisions of section 16 of the Act of May 13, 1946, 60 Stat. 179, the following lands were reconveyed to the United States:

MOUNT DIABLO MERIDIAN

- T. 21 S., R. 61 E.,
Sec. 32, E $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$.

The area contains 120 acres.

2. The land is located in Clark County, Nev., and lies between and within the rights-of-way for Interstate 15 and U.S. Highway 91. Vegetation is sparse and consists of such species as cat claw, burro brush, and annual weeds and forbes. The parcel is dissected by drainage channels.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the land is hereby opened to application, petition and selection generally.

All valid applications received at or prior to 10 a.m. on November 24, 1967, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

4. Inquiries shall be addressed to Land Office Manager, Bureau of Land Management, Room 3008 Federal Building, 300 Booth Street, Reno, Nev. 89502.

ROLLA E. CHANDLER,
Land Office Manager.

[F.R. Doc. 67-12635; Filed, Oct. 25, 1967;
8:46 a.m.]

[OR 107 (Wash.)]

WASHINGTON

Notice of Termination of Proposed Classification of Public Lands

OCTOBER 19, 1967.

Notice of a proposed classification of public lands was published as F.R. Doc. 66-7973 on page 10000 of the issue for July 22, 1966. The proposed classification has been canceled insofar as it involved the lands described below. There-

fore, pursuant to the regulations contained in 43 CFR 2411.2(e) (2) (ii), such lands will be at 10 a.m. on November 24, 1967, relieved of the segregative effect of the above-mentioned proposed classification.

The lands involved in this notice of termination are:

WILLAMETTE MERIDIAN

- T. 36 N., R. 1 E.,
Sec. 31, lot 2.
- T. 3 N., R. 5 E.,
Sec. 29, SW $\frac{1}{4}$.
- T. 31 N., R. 6 E.,
Sec. 27, NE $\frac{1}{4}$ NW $\frac{1}{4}$.
- T. 2 N., R. 7 E.,
Sec. 10, NW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$.
- T. 3 N., R. 7 E.,
Sec. 28, lot 3.
- T. 21 N., R. 7 E.,
Sec. 14, SW $\frac{1}{4}$ SW $\frac{1}{4}$.
- T. 12 N., R. 8 E.,
Sec. 12, SE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{4}$ SW $\frac{1}{4}$,
SW $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$.
- T. 13 N., R. 9 E.,
Sec. 10, lot 3;
Sec. 20, lot 8;
Sec. 28, lot 2.
- T. 23 N., R. 9 E.,
Sec. 6, N $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 29, lots 3 to 6, inclusive;
Sec. 33, lots 6, 10, 11.
- T. 34 N., R. 10 E.,
Sec. 2, E $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$.
- T. 15 N., R. 1 W.,
Sec. 15, lot 5.
- T. 30 N., R. 1 W.,
Sec. 28, lot 13.
- T. 30 N., R. 9 W.,
Sec. 7, lot 15.
- T. 28 N., R. 14 W.,
Sec. 30, NW $\frac{1}{4}$ SE $\frac{1}{4}$.
- T. 28 N., R. 15 W.,
Sec. 25, lots 5 and 7.
- T. 8 N., R. 29 E.,
Sec. 6, lots 1 to 5, inclusive, and SE $\frac{1}{4}$ SW $\frac{1}{4}$.

MURL W. STORMS,
Acting State Director.

[F.R. Doc. 67-12636; Filed, Oct. 25, 1967;
8:47 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration CERTIFIED COLOR INDUSTRY COMMITTEE

Notice of Filing of Petition Regarding Color Additive FD&C Blue No. 1

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 706(d), 74 Stat. 402; 21 U.S.C. 376(d)), notice is given that a petition (CAP 53) has been filed by the Certified Color Industry Committee c/o Hazleton Laboratories, Inc., Post Office Box 30, Falls Church, Va. 22046, proposing the issuance of a regulation to provide for the safe use and certification of FD&C Blue No. 1 (the disodium salt of 4-[(4-(N-ethyl sulfobenzylamino) - phenyl] - (2-sulfoniumphenyl) - methylene] - [1-(N-ethyl-N-sulfobenzyl) - A²-cyclohexadieniminel) as a color for foods (including dietary supplements) and ingested drugs in amounts

consistent with good manufacturing practice.

Dated: October 19, 1967.

R. E. DUGGAN,
Acting Associate Commissioner
for Compliance.

[F.R. Doc. 67-12660; Filed, Oct. 25, 1967;
8:49 a.m.]

COLORCON INC.

Notice of Filing of Petition Regarding Diluent for Color Additive Mixtures

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 706(d), 74 Stat. 402; 21 U.S.C. 376(d)), notice is given that a petition (CADP 3) has been filed by Colorcon Inc., Box 24, West Point, Pa. 19486, proposing that § 8.300 *Diluents in color additive mixtures for food use exempt from certification* be amended to provide for the safe use of Specially Denatured Alcohol 3A (as defined in 26 CFR Part 212) as a diluent in inks for marking food supplements in tablet form, confectionery, and gum with the restriction that no residue of the diluent be present in the finished food product.

Dated: October 19, 1967.

R. E. DUGGAN,
Acting Associate Commissioner
for Compliance.

[F.R. Doc. 67-12661; Filed, Oct. 25, 1967;
8:49 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-151]

UNIVERSITY OF ILLINOIS

Notice of Issuance of Facility License Amendment

The Atomic Energy Commission has issued, effective as of the date of issuance, Amendment No. 8, set forth below, to Facility License No. R-69. The license authorizes the University of Illinois to operate its TRIGA-type nuclear reactor located on the campus in Urbana, Ill. The amendment authorizes the licensee (1) to construct a mechanical equipment room and (2) to install therein the delay tanks, pumps, heat exchanger, valves, and piping associated with a primary and secondary cooling system to be used in conjunction with an anticipated 1.5 megawatt core to be installed at a later date. The installation of the new equipment will not affect operations with the present core. An application for the necessary licenses to install and operate an Advanced TRIGA reactor at a power level of 1.5 megawatts has been filed with the Commission.

Within fifteen (15) days from the date of publication of this notice in the FEDERAL REGISTER, the licensee may file a request for a hearing, and any person

whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions to intervene shall be filed in accordance with the provisions of the Commission's rules of practice, 10 CFR Part 2. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

For further details with respect to this amendment, see (1) the application for license amendment dated August 28, 1967, and (2) a related safety evaluation prepared by the Division of Reactor Licensing, both of which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of item (2) above may be obtained at the Commission's Public Document Room, or upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 16th day of October 1967.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor
Operations, Division of Reactor
Licensing.

AMENDMENT TO FACILITY LICENSE

[License No. R-69, Amdt. 8]

The Atomic Energy Commission has found that:

1. The application for amendment complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations set forth in Title 10, Chapter I, CFR;
2. The issuance of this amendment will not be inimical to the common defense and security or to the health and safety of the public; and
3. Prior public notice of proposed issuance of this amendment is not required since the amendment does not involve significant hazard considerations different from those previously evaluated.

Accordingly, License No. R-69, as amended, which authorizes the University of Illinois to possess and operate the TRIGA-type nuclear reactor located on the University's campus at Urbana, Ill., is hereby further amended as follows:

"The University is authorized to (1) construct a mechanical equipment room external to the present reactor building, and (2) install therein the delay tanks, pumps, heat exchanger, valves, and associated piping as proposed in the application for amendment dated August 28, 1967."

This amendment is effective as of the date of issuance.

Date of Issuance: October 16, 1967.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Oper-
ations, Division of Reactor Licens-
ing.

[F.R. Doc. 67-12618; Filed, Oct. 25, 1967;
8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 19151]

ALLEGHENY AIRLINES, INC., AND LAKE CENTRAL AIRLINES, INC.

Notice of Prehearing Conference

Application of Allegheny Airlines, Inc., and Lake Central Airlines, Inc., under sections 408 and 401 of the Federal Aviation Act of 1958, as amended, for approval of the merger of Lake Central Airlines, Inc., into Allegheny Airlines, Inc., and for transfer of Lake Central's certificate of public convenience and necessity for route 88 to Allegheny.

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on November 9, 1967, at 10 a.m., e.s.t., in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Milton H. Shapiro.

In order to facilitate the conduct of the conference interested parties are instructed to submit to the examiner and other parties on or before November 1, 1967, (1) proposed statements of issues; (2) proposed stipulations; (3) requests for information; (4) statements of positions of parties; and (5) proposed procedural dates.

Dated at Washington, D.C., October 23, 1967.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 67-12652; Filed, Oct. 25, 1967;
8:48 a.m.]

[Docket No. 18650; Order E-25860]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Agreements Regarding Containerization

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 20th day of October 1967.

By Order E-25527, dated August 15, 1967, the Board in acting upon resolutions adopted by the member carriers of the International Air Transport Association (IATA), approved, inter alia, for a 2-year period through September 30, 1969, revisions to the then effective IATA container resolutions.¹ The Board, in approving the agreements, granted 15 days for interested persons to submit statements, together with supporting data, in support of or in opposition to the Board's approval.

A statement has been received from Wings and Wheels Express, Inc. (WWE), and Air Express International Corp. (AEC), requesting the Board to modify its approval of the container resolutions to the extent necessary to disapprove the

¹Resolution 520—Containers Board and Resolution 521—Use of Containers and Pallets (unit load devices).

agreement and thereby continue the pre-existing container program. Pan American World Airways, Inc. (PAA), and Trans World Airlines, Inc. (TWA), have filed formal answers to the statement of WWE and AEI.

Basically, the statement of WWE and AEI alleges that the revisions made to the container program (1) represent tariff increases rather than decreases, (2) provide for no density incentive, and (3) impose excessive and unnecessary structural requirements on containers. The Board in approving the container program revisions noted that such revisions generally provided for decreases in rates for containerized shipments. (The examples cited appear to be extreme and not typical of the average shipment of air freight. The examples used are based on consignments with a density of 22.6 pounds per cubic foot or more, while the average air freight shipment has a density of approximately 10 pounds per cubic foot. We would also note that even if the examples used were typical, consideration was not given to the decreases in the general cargo rates, which when taken into consideration more than offset any increases caused by the revisions in the container rules. Although the container provisions include no density incentive as such, neither did the old resolution. In any event, the Board has given the carriers a considerable degree of flexibility to experiment with a container program, and finds no reason to withdraw its approval on the basis of the considerations now being advanced.

The final point made by WWE and AEI is that the structural requirements for containers are excessive and unnecessary. Since the safety of the cargo and aircraft is, in the first instance, the responsibility of the carriers, the Board believes that the carriers should determine the structural requirements for containers. Further, there has been no showing on the part of WWE and AEI that the standards established under the IATA resolution are unreasonable. Therefore, the Board finds no reason to withdraw its approval.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 102, 204(a), and 412 thereof:

It is ordered, That:

The request of Wings and Wheels Express, Inc., and Air Express International Corp., that the Board modify its outstanding approval of Agreement CAB 19632, R-33 and R-34 be, and is hereby, denied.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 67-12653; Filed, Oct. 25, 1967;
8:48 a.m.]

[Docket No. 18650; Order E-25857]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Agreement Regarding Specific Commodity Rates

Issued under delegated authority October 20, 1967.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Joint Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement, adopted pursuant to unprotested notices to the carriers and promulgated in IATA letters dated September 8,¹ September 25,² and October 6, 1967^{3a} as set forth in the attachment hereto,^{3b} (1) names additional rates under existing commodity descriptions, (2) names rates under new commodity descriptions, (3) extends the validity of one presently effective specific commodity rate, and (4) reduces one rate under the existing commodity description. Additionally, the agreement amends the descriptions for Commodity Item 7103 by the inclusion of "Envelopes"⁴ and for Commodity Item 9509 to read: "Handicraft, Namely Handloom Textiles, Brass, Copper, Iron, Wood, Bamboo, Wicker, Paper, Paper Mache, and Clay Articles."⁵ The new rates reflect reductions ranging from 5.2 to 66.0 percent and are consistent with the present level of specific commodity rates within the applicable areas.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found that the subject agreement is adverse to the public interest or in violation of the Act: *Provided*, That approval thereof is conditioned as hereinafter ordered.

Accordingly, it is ordered, That:

Agreement CAB 19703, R-13 through R-26, be approved; however, this approval shall not constitute acceptance of the specific commodity descriptions contained therein for purposes of tariff publication.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition

for review thereof is filed, or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 67-12654; Filed, Oct. 25, 1967;
8:48 a.m.]

[Docket No. 18650; Order E-25856]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Agreement Regarding Specific Commodity Rates

Issued under delegated authority October 20, 1967.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Traffic Conference 1 of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement, adopted pursuant to unprotested notices to the carriers and promulgated in an IATA letter dated October 6, 1967,¹ as set forth in the attachment hereto,² (1) names additional rates under existing commodity descriptions, (2) names one rate under a new commodity description, (3) reduces one rate under the existing commodity description, and (4) increases one rate under the existing commodity description. The new and reduced rates reflect reductions ranging from 15.2 to 81.0 percent. All of the proposed rates are consistent with the present level of specific commodity rates within the applicable areas.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found that the subject agreement is adverse to the public interest or in violation of the Act, provided that approval thereof is conditioned as hereinafter ordered.

Accordingly, it is ordered, That:

Agreement CAB 19654, R-22 through R-37, be approved; however, this approval shall not constitute acceptance of the specific commodity descriptions contained therein for purposes of tariff publication.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition

¹ Received by the Board Oct. 9, 1967.

² Filed as part of the original document.

¹ Received by the Board Sept. 11, 1967.

² Received by the Board Sept. 27, 1967.

^{3a} Received by the Board Oct. 9, 1967.

^{3b} Filed as part of the original document.

⁴ R-17.

⁵ R-24.

for review thereof is filed, or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 67-12655; Filed, Oct. 25, 1967;
8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 17469; FCC 67M-1773]

BLUEFIELD TELEVISION CABLE AND BLUEFIELD CABLE CORP.

Order Continuing Prehearing Conference

In re petition of Bluefield Television Cable, Bluefield, W. Va., request for waiver of § 74.1103 of the Commission's rules; and cease and desist order to be directed against Bluefield Cable Corp., owner and operator of a CATV system at Bluefield, W. Va.

On the unopposed oral request of counsel for WCYB-TV: *It is ordered*, That the further prehearing conference is rescheduled from October 23 to November 6, 1967, at 9:30 a.m.

Issued: October 19, 1967.

Released: October 20, 1967.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-12657; Filed, Oct. 25, 1967;
8:49 a.m.]

[Docket Nos. 17234-17241; FCC 67M-1774]

CATV OF ROCKFORD, INC., ET AL.

Statement and Order After Further Prehearing Conference

In re petitions by Catv of Rockford, Inc., Rockford, Ill., Docket No. 17234, File Nos. CATV 100-23, 100-39; Rockford Community Television, Inc., Loves Park, Ill., Docket No. 17235, File No. CATV 100-68; TV Cable Company of Stephenson County, Freeport, Ill., Docket No. 17236, File No. CATV 100-105; Beloit Community Television Services, Inc., Beloit, Wis., Docket No. 17237, File No. CATV 100-92; Television Wisconsin, Inc., Whitewater, Wis., Docket No. 17238, File No. CATV 100-26; Whitewater Cable Corp., Whitewater, Wis., Docket No. 17239, File No. CATV 100-37; Jefferson Cable Corp., Jefferson, Wis., Docket No. 17240, File No. CATV 100-51; Total-TV, Inc., Janesville, Wis., Docket No. 17241, File No. CATV 100-13; for authority pursuant to § 74.1107 to serve and operate CATV systems in the Milwaukee, Wis., Market (24), Madison, Wis., Market (80), and Rockford, Ill., Market (99).

At today's conference the following schedule was agreed to:

Receipt of notification November 13, 1967.

Of witnesses desired for cross-examination (at same time, to extent possible, direct case oral witnesses and area of their testimony will be specified).

Hearing ----- November 27, 1967
(rescheduled from October 30).

So ordered.

Issued: October 19, 1967.

Released: October 20, 1967.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-12658; Filed, Oct. 25, 1967;
8:49 a.m.]

[Docket No. 17066; FCC 67M-1775]

MULTIVISION NORTHWEST, INC.

Order Continuing Hearing

In re petition by Multivision Northwest, Inc., Dalton, Ga., Docket No. 17066, File No. CATV 100-73; for authority pursuant to § 74.1107 to operate a CATV system in Dalton.

The Hearing Examiner having under consideration an oral request for continuance of hearing in the above-entitled proceeding because of the serious illness of one of the counsel appearing therein and to afford time for other counsel to become familiar with the case:

It is ordered, That the hearing presently scheduled for October 19, 1967, is continued to November 2, 1967, commencing at 10 a.m. in the offices of the Commission at Washington, D.C.

Issued: October 18, 1967.

Released: October 20, 1967.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-12659; Filed, Oct. 25, 1967;
8:49 a.m.]

FEDERAL MARITIME COMMISSION

[Docket No. 67-53]

TRANS-PACIFIC FREIGHT CON- FERENCE OF JAPAN

Order of Investigation Regarding Movement of Cargo in Containers

The Trans-Pacific Freight Conference of Japan (the Conference) under the authority of Federal Maritime Commission Agreement No. 150, as amended, has on file with the Federal Maritime Commission (the Commission) and in effect, its Freight Tariff No. 33, FMC-1. General Tariff Rule and Regulation No. 40 provides certain allowances for pallets when cargo is unitized and furthermore freight

allowances are permitted on certain commodity rates when cargo is so unitized.

Effective October 6, 1967, the Conference amended its Tariff No. 33, FMC-1, introducing Rule 116 "Unitized Shipments in Containers". This rule provides that: "General Tariff Rule and Regulation No. 40 and/or related Freight Allowances will not apply to cargo in shipper loaded containers".

Upon consideration of Rule Nos. 40 and 116, there is reason to believe that the effect of these rules together with the tariff rules pertaining to unitized or containerized cargoes, may unfairly treat or unjustly discriminate against shippers in the matter of cargo space accommodations or other facilities in violation of section 14, Fourth, Shipping Act, 1916 (the Act); that they may cause an undue or unreasonable preference or advantage to particular persons or descriptions of traffic or subject particular persons or descriptions of traffic to an undue or unreasonable prejudice or disadvantage in violation of section 16, First, of the Act; that they may constitute an unreasonable rule, regulation, or practice relating to the receiving, handling, storing, or delivering of property in violation of section 17 of the Act; that they may result in rates or charges on unitized shipments in containers that may be so unreasonably high as to be detrimental to the commerce of the United States in violation of section 18(b) (5) of the Act.

Furthermore, the Conference by applying Rule 116 may be effectuating its Agreement in a manner which has the effect of stifling development of container operations in the trade from Japan, Korea, and Okinawa, to the United States which may be unjustly discriminatory or unfair as between carriers, contrary to the public interest, and detrimental to the commerce of the United States, in violation of the provisions of section 15 of the Act.

Therefore, the Commission is of the opinion that an investigation should be conducted for the purpose of determining whether said Rule Nos. 40 and 116, together with the application of the other unitized cargo and containerized cargo rules, rates, and allowances in said tariff operate in violation of the Act as set out hereinabove.

It is ordered, That pursuant to authority of section 22 of the Shipping Act of 1916 an investigation is hereby instituted into the lawfulness of the rates, practices, rules, and regulations pertaining to unitized and containerized cargo and contained in Tariff No. 33, FMC-1, of the Trans-Pacific Freight Conference of Japan, with a view to making such findings and orders as facts and circumstances warrant. In the event the matter hereby placed under investigation is changed or amended before this investigation has been concluded, such changed or amended matter will be included in this investigation.

It is further ordered, That Trans-Pacific Freight Conference of Japan (and its member lines) be named as respondents in this proceeding;

It is further ordered, That this proceeding be assigned for public hearing before an examiner of the Commission's Office of Hearing Examiners and that the hearing be held at a date and a place to be determined and announced by the presiding examiner;

It is further ordered, That: (I) A copy of this order shall forthwith be served on the respondents herein; (II) the said respondents be duly notified of the time and place of the hearing; and (III) this order be published in the FEDERAL REGISTER and notice of hearing be served upon respondents;

It is further ordered, That all persons (including individuals, corporations, associations, firms, partnerships, and public bodies) having an interest in this proceeding and desiring to intervene therein, should notify the Secretary of the Commission promptly and file petitions for leave to intervene in accordance with Rule 5(1) of the Commission's rules of practice and procedure (46 CFR 502.72);

And it is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding, including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission, October 19, 1967.
[SEAL] FRANCIS C. HURNEY,
Assistant Secretary.

- APPENDIX A
RESPONDENTS
- American Export-Isbrandtsen Lines, Inc., 26 Broadway, New York, N.Y. 10004.
 - American Mail Line, Ltd., 1010 Washington Building, Seattle, Wash.
 - Barber-Wilhelmsen Line, Wilhelmsens Dampskibsselskab, A/S Den Norske Afrika-og Australielinie, A/S Tonsberg, A/S Tankfart I, A/S Tankfart IV, A/S Tankfart V, A/S Tankfart VI (as one member or party only), Roald Amundsens Gate 5, Oslo, Norway.
 - Fern-Ville Lines, Fearnley & Eger and A. F. Klaveness & Co. A/S, Skibsselskabet Varild, Aksjeselskapet Marina, Aksjeselskapet Giltire, Dampskibssinteressensskavet Garonne, Aksjeselskapet Standard, Fearnley & Egers Befragtningsforretning A/S, Skibsselskabet Solstad, Skibsselskabet Siljestad, Universal Trading & Shipping Agency Aksjeselskap (as one member or party only), Fearnley & Eger, Inc., Radhusgaten 23, Oslo, Norway.
 - Japan Line, Ltd., Kokusai Building, 12, 3-Chome, Marunouchi, Chiyoda-ku, Tokyo, Japan.
 - Kawasaki Kisen Kaisha, Ltd., 8, Kaigan-dori, Ikuta-ku, Kobe, Japan.
 - Knutson Line, Dampskibsselskabet Jeanette Skinner, Skibsselskabet Pacific, Skibsselskabet Marie Bakke, Dampskibsselskabet Golden Gate, Dampskibsselskabet Lisbeth, Skibsselskabet Ogeka, Havalfangstskibsselskabet Suderoy (as one party only), Knut Knutsen O.A.S., Haugesund, Norway.
 - Maritime Company of the Philippines, 205 Juan Luna, Manila, Philippine Islands.
 - Matson Navigation Co., 215 Market Street, San Francisco, Calif. 94105.
 - Mitsui O.S.K. Lines, Ltd., 3-3, 5-Chome, Akasaka, Minato-ku, Tokyo, Japan.

- Nippon Yusen Kaisha, 20-1, 2-Chome, Marunouchi, Chiyoda-ku, Tokyo, Japan.
- Pacific Far East Line, Inc., 315 California Street, San Francisco, Calif. 94111.
- Showa Shipping Co., Ltd., Muromachi Building, 1, 4-Chome, Nihonbashi-Muromachi, Chuo-ku, Tokyo, Japan.
- States Marine Lines, States Marine Lines, Inc., Global Bulk Transport, Inc. (as one member only), 90 Broad Street, New York, N.Y. 10004.
- States Steamship Co., 320 California Street, San Francisco, Calif. 94104.
- United Philippine Lines, Inc., U.P.L. Building, Santa Clara Street, Intramuros, Manila, Philippine Islands.
- Waterman Steamship Co., 61 St. Joseph Street, Mobile, Ala. 36601.
- Yamashita-Shinnihon Steamship Co., Ltd., Palaceside Building, 1 Takehira-cho, Chiyoda-ky, Tokyo, Japan.
- United States Lines, Inc. (American Pioneer Line), 1 Broadway, New York, N.Y. 10004.
- Trans-Pacific Freight Conference of Japan (Agreement No. 150), Kindai Building, 11, 3-Chome Kyobashi, Chuo-ku, Tokyo, Japan.

[F.R. Doc. 67-12649; Filed, Oct. 25, 1967; 8:48 a.m.]

CITY OF OAKLAND AND SEA-LAND OF CALIFORNIA, INC.

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as set forth below), and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

J. Kerwin Rooney, Port Attorney, Port of Oakland, 66 Jack London Square, Oakland, Calif. 94607.

Agreement No. T-5-1(2) between the City of Oakland (City) and Sea-Land of California, Inc. (Sea-Land), modifies the basic agreement between the parties which provides for the lease of certain land and improvements at Oakland, California, to Sea-Land for use as a truck

terminal. The purpose of the modification is to (1) revise the description of the property, (2) provide for additional construction and financing thereof and (3) amend the rental.

Dated: October 23, 1967.
By order of the Commission.
FRANCIS C. HURNEY,
Assistant Secretary.
[F.R. Doc. 67-12650; Filed, Oct. 25, 1967; 8:48 a.m.]

PACIFIC COAST AUSTRALASIAN TARIFF BUREAU

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814)

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as set forth below) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. W. C. Galloway, Chairman, Pacific Coast-Australasian Tariff Bureau, 635 Sacramento Street, San Francisco, Calif. 94111.

Agreement No. 50-17, between member lines of the Pacific Coast-Australasian Tariff Bureau (Agreement No. 50, as amended), modifies Article I entitled "Purpose of this Agreement" and Article III entitled "Freight Charges" of the basic agreement. The purpose of this amendment is to provide for the payment of brokerage and compensation to freight forwarders in connection with the transportation of cargoes covered by the agreement. In effect the member lines will be able to establish rules in their tariffs covering the payment of brokerage or compensation to freight forwarders.

Dated: October 23, 1967.
By order of the Federal Maritime Commission.
FRANCIS C. HURNEY,
Assistant Secretary.
[F.R. Doc. 67-12651; Filed, Oct. 25, 1967; 8:48 a.m.]

SECURITIES AND EXCHANGE COMMISSION

CODITRON CORP.

Order Suspending Trading

OCTOBER 20, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, \$3 par value, of Coditron Corp., New York, N.Y., otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period October 23, 1967, through November 1, 1967, both dates inclusive.

By the Commission.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

[F.R. Doc. 67-12637; Filed, Oct. 25, 1967;
8:47 a.m.]

[812-2184]

FIDELITY CAPITAL FUND, INC.

Notice of Filing of Application for Order Exempting Proposed Trans- action

OCTOBER 20, 1967.

Notice is hereby given that Fidelity Capital Fund, Inc. ("applicant"), 35 Congress Street, Boston, Mass. 02109, a Massachusetts Corporation registered under the Investment Company Act of 1940 ("Act") as an open-end diversified management investment company, has filed an application pursuant to section 6(c) of the Act for an order exempting from the provisions of section 22(d) of the Act a transaction in which applicant's redeemable securities will be issued at a price other than the current public offering price in exchange for substantially all of the assets of Lawrence Fertig & Co., Inc. ("Fertig"). All interested persons are referred to the application on file with the Commission for a statement of applicant's representations which are summarized below.

Fertig, a New York Corporation, is a personal holding company all of whose outstanding stock is owned by three individuals. Fertig is not making and does not propose to make a public offering of its stock and is exempt from registration under the Act by reason of the provisions of section 3(c)(1) thereof. Pursuant to an agreement between applicant and Fertig, assets owned by Fertig with a market value of approximately \$1,628,033 on June 30, 1967, will be transferred to applicant in exchange for shares of applicant's capital stock.

The number of shares of applicant to be issued to Fertig is to be determined by dividing the aggregate market value

(subject to certain adjustments set forth in the agreement and plan of reorganization) of the assets of Fertig to be transferred to applicant by the net asset value per share of applicant, both to be determined as of the business day preceding the date of the transfer, as defined in the agreement. Applicant presently intends to sell, subsequent to acquisition, approximately 30 percent of the assets of Fertig to be acquired.

The per share asset value of applicant's stock as of June 30, 1967, was \$14.86. If the valuation in the agreement had taken place on that date, Fertig would have received 109,135 shares of applicant's stock.

When received by Fertig, the shares of applicant are to be distributed to the Fertig shareholders on the liquidation of Fertig. Applicant has been advised by the management of Fertig that the stockholders of Fertig do not have any present intention of redeeming or otherwise transferring the shares of applicant to be received on such liquidation following the sale of assets transaction.

There is no connection between applicant and Fertig and no officer or shareholder of Fertig is an affiliated person of applicant or its adviser, and the agreement was negotiated at arms-length by the two companies. The Board of Directors of applicant approved the agreement as being in the best interests of its shareholders, taking all relevant consideration into account.

Section 22(d) of the Act provides that registered open-end investment companies may sell their shares only at the current public offering price as described in the prospectus. Section 6(c) permits the Commission, upon application, to exempt such a transaction if it finds that such an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant contends that the proposed offering of its stock will comply with the provisions of the Act, other than section 22(d) and submits that the granting of the application would be in accordance with established practice of the Commission, is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 8, 1967 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the

address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

[F.R. Doc. 67-12638; Filed, Oct. 25, 1967;
8:47 a.m.]

JODMAR INDUSTRIES, INC.

Order Suspending Trading

OCTOBER 20, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Jodmar Industries, Inc., 1790 East 93d Street, Brooklyn, N.Y., and all other securities of Jodmar Industries, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period October 21, 1967, through October 30, 1967, both dates inclusive.

By the Commission.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

[F.R. Doc. 67-12639; Filed, Oct. 25, 1967;
8:47 a.m.]

POWER OIL CO.

Order Suspending Trading

OCTOBER 20, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Power Oil Co., Houston, Tex., and all other securities of Power Oil Co. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period Oc-

tober 22, 1967, through October 31, 1967, both dates inclusive.

By the Commission.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

[F.R. Doc. 67-12640; Filed, Oct. 25, 1967;
8:47 a.m.]

SUBSCRIPTION TELEVISION, INC.

Order Suspending Trading

OCTOBER 20, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, \$1 par value of Subscription Television, Inc., New York, N.Y., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period October 23, 1967, through October 24, 1967, both dates inclusive.

By the Commission.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

[F.R. Doc. 67-12641; Filed, Oct. 25, 1967;
8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 1117]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FOR- WARDER APPLICATIONS

OCTOBER 20, 1967.

The following applications are governed by Special Rule 1.247¹ of the Commission's general rules of practice (49 CFR as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with § 1.247(d) (3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and de-

scribing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed); and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of § 1.247(d) (4) of the special rule, and shall include the certification required therein.

Section 1.247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record.

The publications hereinafter set forth reflect the scope of the applications as filed by applicants, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

No. MC 493 (Sub-No. 7), filed October 4, 1967. Applicant: HYMAN MOTOR SERVICE CO., a corporation, 601 State Street, Quincy, Ill. 62301. Applicant's representative: R. W. Burgess, 8514 Midland Boulevard, St. Louis, Mo. 63114. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value; classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between Quincy, Ill., and Keokuk, Iowa, from Quincy over U.S. Highway 24 to junction U.S. Highway 61, thence over U.S. Highway 61 to Keokuk, and return over the same route, as an alternate route for operating convenience only, serving no intermediate points. Note: If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Springfield, Ill.

No. MC 1334 (Sub-No. 6), filed October 2, 1967. Applicant: OURAY TRUCK LINE, INC., Post Office Box 15243, 2922 South Main Street, Salt Lake City, Utah 84115. Applicant's representative: J. Bruce Eastlake, Post Office Box 4898, Tucson, Ariz. 85717. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those of unusual value, and those requiring special equipment), serving Fort Rock, Ariz., and points within 5 miles thereof, as off-route points in connection with carrier's regular route operations in Arizona. Note: Fort Rock is located on an unnumbered county road approximately 25 miles southwest of Seligman, Ariz. If a hearing is deemed necessary, applicant did not name location.

No. MC 1615 (Sub-No. 5), filed October 2, 1967. Applicant: LLOYD V. ADKISON, Post Office Box 6, Higginsville, Mo. 64037. Applicant's representative: Tom B. Kretsinger, 450 Professional Building, Kansas City, Mo. 64106. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: *General commodities*, (1) over regular routes—between Higginsville, Mo., and points in the Kansas City, Mo.-Kansas City, Kans., commercial zone, from Higginsville over Missouri Highway 13 to junction U.S. Highway 40, thence over U.S. Highway 40 to points in the Kansas City, Mo.-Kansas City, Kans., commercial zone, as defined by the Commission, and return over the same routes, serving no intermediate points, and (2) over irregular routes—between Higginsville, Mo., and points within 20 miles thereof, on the one hand, and, on the other, points in Missouri, subject to the restriction that no service shall be rendered between points on the regular route of an authorized motor carrier. Note: Applicant states it presently holds a certificate of registration under MC 1615 Sub-4 to serve between Kansas City and Higginsville, Mo., over regular routes. The purpose of the instant application is to obtain authority to serve the entire Kansas City, Mo.-Kansas City, Kans., commercial zone, as defined by the Commission. Applicant further states that if the authority herein sought is granted, the said certificate of registration would be withdrawn. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 5470 (Sub-No. 25) (Correction), filed May 25, 1967, published FEDERAL REGISTER issues of June 15, 1967, and September 28, 1967, and republished as corrected this issue. Applicant: ER-SKINE & SONS, INC., Rural Delivery No. 5, Box 146, Mercer, Pa. 16137. Applicant's representative: Theodore Polydoroff, 1329 E Street, NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metals*, in bulk, in dump vehicles, between Niagara Falls, N.Y., on the one

¹ Copies of Special Rule 1.247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

hand, and, on the other, points in Pennsylvania, West Virginia, Ohio, Kentucky, Indiana, Illinois, Michigan, New Jersey, Maryland, Delaware, and Virginia; restricted against service from Painesville, Ohio, to Niagara Falls, N.Y., and, further, restricted against service between Niagara Falls, N.Y., and points in Cumberland, Salem, Gloucester, Cape May, Atlantic, Camden, and Burlington Counties, N.J. **NOTE:** The purpose of this republication is to correct the spelling of Painesville, Ohio, inadvertently misspelled in previous publication. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 5470 (Sub-No. 30), filed October 12, 1967. Applicant: ERSKINE & SONS, INC., Rural Delivery No. 5, Mercer, Pa. 16137. Applicant's representative: Theodore Polydoroff, 917 Munsey Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Ferroalloys, pig iron, and scrap metal*, in dump vehicles, from East Liverpool, Ohio, and Pittsburgh, Pa., to points in Connecticut, Delaware, Maryland, Massachusetts, Michigan, New Jersey, Pennsylvania, and West Virginia; (2) *ferrous and nonferrous alloys, fluorspar, clay, pig iron, scrap metals, chrome ore, and manganese ore*, in dump vehicles, between Braddock, Pa., and East Liverpool, Ohio, on the one hand, and, on the other, points in Connecticut, Delaware, Kentucky, Maryland, Massachusetts, Michigan, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Virginia, and West Virginia; (3) *ferroalloys and silicon metal*, in dump vehicles, from Vancor, Ohio, to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, and Virginia; and (4) *ferroalloys, fluorspar, and pig iron*, in dump vehicles, between East Liverpool, Ohio, and Pittsburgh, Pa., on the one hand, and, on the other, points in Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, and West Virginia. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 19251 (Sub-No. 9) (Amendment), filed July 13, 1967, published in the FEDERAL REGISTER issue of August 25, 1967, amended October 10, 1967, and republished this issue. Applicant: HERBERT M. ADAMS, doing business as ADAMS VAN & STORAGE CO., 80 Dutton Street, Box 803, Bangor, Maine 04401. Applicant's representative: Robert J. Gallagher, Professional Building, 66 Central Street, Wellesley, Mass. 02181. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, restricted to the transportation of shipments both moving on the through bill of lading of a freight forwarder operating under the exemption provisions of section 402(b) (2) of the Interstate Commerce Act, as amended, and having an immediately prior or subsequent out-of-State line-haul movement

by rail, motor, water, or air. **NOTE:** The purpose of this republication is to more clearly set forth the commodity transported. If a hearing is deemed necessary, applicant requests it be held at Bangor, Augusta, or Portland, Maine.

No. MC 25798 (Sub-No. 160), filed October 9, 1967. Applicant: CLAY HYDER TRUCKING LINES, INC., 502 East Bridgers Avenue, Post Office Box 1186, Auburndale, Fla. 33823. Applicant's representative: Tony G. Russell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy, confectionary products, and snack foods*, from New Orleans and Ponchatoula, La., and Memphis, Tenn., to points in Alabama, Florida, Georgia, Tennessee, North Carolina, South Carolina, Missouri, Oklahoma, Arkansas, Texas, Ohio, Kentucky, Indiana, Michigan, Illinois, Wisconsin, and Kansas, restricted against originating traffic at Memphis, Tenn., when consigned to points in Tennessee. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at New Orleans, La.

No. MC 29883 (Sub-No. 6), filed October 9, 1967. Applicant: FAIRALL TRUCKING COMPANY, a corporation, 18472 Allen Road, Wyandotte, Mich. 48192. Applicant's representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, Mich. 48226. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, medicines, biological products and chemicals; and materials, equipment and supplies used in the manufacture and packaging thereof*, between Detroit, Rochester, and Holland, Mich., on the one hand, and, on the other, points in Ohio, Indiana, and Illinois (except in the Chicago, Ill. commercial zone), under contract with Parke, Davis & Co. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Detroit or Lansing, Mich.

No. MC 29919 (Sub-No. 16), filed October 9, 1967. Applicant: KOWALSKY'S EXPRESS SERVICE, a corporation, 2235 West Main Street, Millville, N.J. 08332. Applicant's representative: Charles E. Creager, Post Office Box 81, Winchester, Va. 22601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glassware, plastic articles, and closures therefor*, from Gloucester City and Millville, N.J., to points in Delaware, Massachusetts, Maryland, New York, Pennsylvania, Virginia, and the District of Columbia; and (2) *Pallets and containers used for the transportation of commodities described in (1) above, and returned, rejected, or damaged shipments of glassware, plastic articles, and closures therefor*, from points in Delaware, Massachusetts, Maryland, New York, Pennsylvania, Virginia, and the District of Columbia to Gloucester City and Millville, N.J. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 49504 (Sub-No. 16) (Amendment), filed September 8, 1967, published in the FEDERAL REGISTER issue of

September 28, 1967, amended by letter dated September 27, 1967, and republished this issue. Applicant: McCUE TRANSFER INC., 3524 East Fourth Street, Hutchinson, Kans. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Salt and salt products, and products used in agricultural, water treatment, food processing, wholesale grocery and institutional supply industries when shipped in mixed truck loads with salt and salt products*, from Kanopolis, Kans., and points within 5 miles thereof, to points in Minnesota, Missouri, Nebraska, North Dakota, South Dakota, Wyoming, Arkansas, Texas, and New Mexico; (2) *canned goods*, from Hutchinson, Kans., and La Junta, Colo., to points in North Dakota, South Dakota, Iowa, Minnesota, Nebraska, and Kansas; (3) *products used in agricultural, water treatment, food processing, wholesale grocery and institutional supply industries when shipped in mixed truck loads with salt and salt products*, from Hutchinson, Kans., to points in Nebraska, Minnesota, North Dakota, South Dakota, Missouri (except St. Joseph, St. Louis, and points in the Kansas City, Missouri-Kansas City, Kans. commercial zone), Wyoming, Arkansas, points in Cochran, Bailey, Randall, Roberts, Crosby, Swisher, Potter, Sherman, Wichita, Lubbock, Castro, Oldham, Dallam, Cottle, Hay, Gray, Ochiltree, Yoakum, Dickens, Briscoe, Carson, Hansford, Floyd, Collingsworth, Hartley, Foard, Kent, Terry, Motley, Childress, Wheeler, Lipscomb, Lamb, Armstrong, Hutchinson, Wilbarger, Lynn, Hale, Donley, Moore, Hockley, Farmer, Deaf Smith, Hemphill, Hardeman, and Garza Counties, Tex., and points in Curry, Bernalillo, Mora, Santa Fe, Colfax, Harding, Los Alamos, Taos, Quay, Guadalupe, Union, San Miguel, Torrance, Rio Arriba, Catron, Chaves, De Baca, Dona Ana, Eddy, Grant, Hidalgo, Lea, Lincoln, Luna, McKinley, Otero, Roosevelt, Sandoval, San Juan, Sierra, Socorro, and Valencia Counties, N. Mex.

(4) *Products used in agricultural, water treatment, food processing, wholesale grocery and institutional supply industries when shipped in mixed truck loads with salt and salt products*, from Lyons, Kans., to points in Nebraska, Minnesota, North Dakota, South Dakota, Wyoming, Arkansas, points in Cochran, Bailey, Randall, Roberts, Crosby, Swisher, Potter, Sherman, Wichita, Lubbock, Castro, Oldham, Dallam, Cottle, Hay, Gray, Ochiltree, Yoakum, Dickens, Briscoe, Carson, Hansford, Floyd, Collingsworth, Hartley, Foard, Kent, Terry, Motley, Childress, Wheeler, Lipscomb, Lamb, Armstrong, Hutchinson, Wilbarger, Lynn, Hale, Donley, Moore, Hockley, Farmer, Deaf Smith, Hemphill, Hardeman, and Garza Counties, Tex., and points in Curry, Bernalillo, Mora, Santa Fe, Colfax, Harding, Los Alamos, Taos, Quay, Guadalupe, Union, San Miguel, Torrance, Rio Arriba, Catron, Chaves, De Baca, Dona Ana,

Eddy, Grant, Hidalgo, Lea, Lincoln, Luna, McKinley, Otero, Roosevelt, Sand-oval, San Juan, Sierra, Socorro, and Valencia Counties, N. Mex. NOTE: The purpose of this republication is to broaden the scope of the application as previously published. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., Wichita or Topeka, Kans.

No. MC 50002 (Sub-No. 56), filed October 12, 1967. Applicant: T. CLARENCE BRIDGE AND HENRY W. BRIDGE, a partnership, doing business as BRIDGE BROTHERS, Bridge and Anderson Streets, Post Office Box 929, Lamar, Colo. 81052. Applicant's representative: C. Zimmerman, 503 Schweiter Building, Wichita, Kans. 67202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia and fertilizer solutions*, in bulk, in tank vehicles, from the plantsite of Phillips Petroleum Co., located at or near Hoag, Nebr., to points in Oklahoma. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Bartlesville, Okla.

No. MC 52629 (Sub-No. 65), filed October 10, 1967. Applicant: HUBER & HUBER MOTOR EXPRESS, INC., Post Office Box 1000, Staunton, Va. 24401. Applicant's representative: James S. Morrison (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, and commodities requiring special equipment), serving the plantsite and warehouse facilities of Rockwell-Standard Corp. located at or near Winchester, Ky., as an off-route point in connection with applicant's regular-route authority to and from Lexington, Ky. NOTE: Applicant states that it presently holds authority to serve all points in Kentucky in the transportation of general commodities, with exceptions, in truckload lots, via Cincinnati, Ohio, as a gateway. If a hearing is deemed necessary, applicant requests it be held at Lexington, Ky.

No. MC 52752 (Sub-No. 17), filed October 6, 1967. Applicant: WESTERN TRANSPORTATION COMPANY, a corporation, 1300 West 35th Street, Chicago, Ill. 60609. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Chicago, Ill., and Washington, Iowa. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 60987 (Sub-No. 11), filed October 5, 1967. Applicant: ARKIN TRUCK LINE, INCORPORATED, 1600 South Indiana Avenue, Chicago, Ill.

60616. Applicant's representative: George S. Mullins, 4704 West Irving Park Road, Chicago, Ill. 60641. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter and materials, supplies, and equipment* used or useful in the maintenance and operation of printing houses, (1) between Chicago, Ill., on the one hand, and, on the other, Pinola, Ind., and (2) between Pinola, Ind., on the one hand, and, on the other, Willard, Ohio, under contract with Encyclopaedia Britannica of Chicago, Ill. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 61592 (Sub-No. 91), filed October 5, 1967. Applicant: JENKINS TRUCK LINE, INC., 3708 Elm Street, Bettendorf, Iowa 52722. Applicant's representative: R. Connor Wiggins, Jr., 909, 100 North Main Building, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grain carts, iron and steel, set up, and tillage equipment, knocked down and accessories thereto*, from Forrest City, Ark., to points in Arkansas, Alabama, Illinois, Louisiana, Mississippi, Missouri, Oklahoma, Tennessee, and Texas. NOTE: Applicant proposes to join the proposed authority to its Subs 13 and 25 with joinder at Memphis, Tenn., serving points in Indiana, Kansas, Kentucky, Michigan, Missouri, Nebraska, Ohio, Iowa, Wisconsin, North Dakota, South Dakota, Illinois, and Minnesota. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn.

No. MC 64819 (Sub-No. 4), filed October 6, 1967. Applicant: C. D. GAMMON COMPANY, a corporation, 4551 West Monroe Street, Chicago, Ill. 60624. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in by wholesale and retail paint supply houses* (except commodities in bulk), and glass, from Chicago, Ill., to points in Lake, Porter, and La Porte Counties, Ind., under contract with Hooker Glass and Paint Manufacturing Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 66650 (Sub-No. 8), filed October 12, 1967. Applicant: STUART M. SMITH, INC., 3511 East North Avenue, Baltimore, Md. 21213. Applicant's representative: Donald E. Freeman, Post Office Box 806, 172 East Green Street, Westminster, Md. 21157. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products and supplies* (except liquid commodities in bulk and frozen commodities), (1) from the plantsite of Becker Pretzel Bakeries, Inc., Division of Tasty Sales Corp., at Baltimore, Md., and the plantsite of Noel Potato Chip Co., Inc., Division of Tasty Sales Corp. at Hanover, Pa., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Indiana, Kentucky, Louisiana,

Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia; and (2) from Camp Hill, Pa., to the plantsite of Becker Pretzel Bakeries, Inc., Division of Tasty Sales Corp., Baltimore, Md. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 73688 (Sub-No. 22), filed October 5, 1967. Applicant: SOUTHERN TRUCKING CORPORATION, 1500 Orenda Avenue, Memphis, Tenn. 38107. Applicant's representative: Charles H. Hudson, Jr., 833 Stahlman Building, Nashville, Tenn. 37201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing materials and asphalt*, between Memphis, Tenn., and points in Kentucky. NOTE: Applicant indicates tacking at Memphis, Tenn., with presently held authority, serving points in Tennessee, Arkansas, and Mississippi. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn.

No. MC 78228 (Sub-No. 16), filed October 2, 1967. Applicant: THE J. MILLER COMPANY, a corporation, 147 Nichol Avenue, McKees Rocks, Pa. 15136. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Ferro alloys, pig iron and scrap metal*, in dump vehicles, from East Liverpool, Ohio, and Pittsburgh, Pa., to points in Connecticut, Delaware, Maryland, Massachusetts, Michigan, New Jersey, Pennsylvania, and West Virginia; (2) *ferrous and nonferrous alloys, fluorspar, clay, pig iron, scrap metals, chrome ore and manganese ore*, in dump vehicles, between Braddock, Pa., and East Liverpool, Ohio, on the one hand, and, on the other, points in Connecticut, Delaware, Kentucky, Maryland, Massachusetts, Michigan, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Virginia, and West Virginia; (3) *ferro alloys and silicon metal*, in dump vehicles, from Vancoram, Ohio, to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, and Virginia, and (4) *ferro alloys, fluorspar and pig iron*, in dump vehicles, between East Liverpool, Ohio, and Pittsburgh, Pa., on the one hand, and, on the other, points in Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, and West Virginia. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 80430 (Sub-No. 118), filed October 5, 1967. Applicant: GATEWAY TRANSPORTATION CO., INC., 2130 South Avenue, Las Crosse, Wis. Applicant's representative: Joseph E. Ludden (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods

as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the proposed plant-site of Republic Powdered Metals Co., located at Brunswick, Ohio, as an off-route point in connection with applicant's presently authorized routes to and from Cleveland, Ohio. **NOTE:** Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Cleveland, Ohio, or Chicago, Ill.

No. MC 101474 (Sub-No. 14), filed October 9, 1967. Applicant: **RED TOP TRUCKING, INCORPORATED**, 7020 Cline Avenue, Hammond, Ind. 46323. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel, and iron and steel articles*, between Peotone, Ill., on the one hand, and, on the other, points in Kentucky, Tennessee, and West Virginia. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 105813 (Sub-No. 158), filed October 9, 1967. Applicant: **BELFORD TRUCKING CO., INC.**, 3500 Northwest 79th Avenue, Miami, Fla. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery* from Bethlehem, Pa., to points in North Carolina, South Carolina, Georgia, and Florida. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 106194 (Sub-No. 20), filed October 5, 1967. Applicant: **HORN TRANSPORTATION, INC.**, 1119 West 24th Street, Kansas City, Mo. 64108. Applicant's representative: Frank W. Taylor, Jr., 1221 Baltimore Avenue, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles*, from Kansas City, Mo., to points in Nebraska, South Dakota, North Dakota, Minnesota, Montana, Wyoming, Idaho, Utah, New Mexico, Arizona, Texas, California, Oregon, Washington, Nevada, and points in Colorado on and west of U.S. Highways 85 and 87. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Kansas City or St. Louis, Mo.

No. MC 106760 (Sub-No. 82), filed October 6, 1967. Applicant: **WHITEHOUSE TRUCKING, INC.**, 2905 Airport Highway, Toledo, Ohio 43614. Applicant's representative: Leonard A. Jaskiewicz, Madison Building, 1155 15th Street NW, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boards, building, wall, and/or insulating, and parts, materials and accessories incidental thereto; composition boards and parts and materials and accessories incidental thereto* (other than bulk commodities and lumber), from Lagro and Wabash, Ind., to points in Florida and Georgia. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Tampa, Fla.

No. MC 106760 (Sub-No. 83), filed October 11, 1967. Applicant: **WHITEHOUSE TRUCKING, INC.**, 2905 Airport Highway, Toledo, Ohio 43614. Applicant's representative: O. L. Thee, 1925 National Plaza, Tulsa, Okla. 74131. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings, knocked down or in sections or prefabricated building sections and components together with materials necessary for the construction and erection thereof*, from points in Pinellas County, Fla., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Tampa, Fla.

No. MC 106904 (Sub-No. 14), filed October 5, 1967. Applicant: **TOPEKA MOTOR FREIGHT, INC.**, 4490 Lower Silver Lake Road, Topeka, Kans. 66603. Applicant's representative: D. S. Hulst, Box 225, Lawrence, Kans. 66044. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Marysville, Kans., and Fairbury, Nebr., from Marysville, over U.S. Highway 36 to junction Kansas Highway 15W, thence north over Kansas Highway 15W, to Fairbury, and return over the same routes serving the intermediate points to Washington, Kans., and Morrowville, Kans. **NOTE:** Applicant states it intends to tack at Marysville, Kans., with its present authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Kans.

No. MC 106920 (Sub-No. 25), filed October 5, 1967. Applicant: **RIGGS FOOD EXPRESS, INC.**, Post Office Box 26, West Monroe Street, New Bremen, Ohio 45869. Applicant's representative: Carroll V. Lewis, 122 East North Street, Sidney, Ohio 45365. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products* as described in Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from Louisville, Ky., to points in Pennsylvania, New York, New Jersey, Connecticut, Rhode Island, New Hampshire, Vermont, Maine, Massachusetts, Delaware, Maryland, Virginia, West Virginia, North Carolina, South Carolina, Florida, Georgia, Alabama, Mississippi, Louisiana, Tennessee, and the District of Columbia. **NOTE:** Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Louisville, Ky.

No. MC 107496 (Sub-No. 594), filed October 5, 1967. Applicant: **RUAN TRANSPORT CORPORATION**, Keosauqua Way at Third, Post Office Box 855, Des Moines, Iowa 50304. Applicant's representative: H. L. Fabritz (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, from Forsyth, Ill., to points in Allamakee, Clayton, Dubuque, Jackson, Clinton, Scott, Muscatine, Louisa, Des Moines, Lee, and Linn Counties, Iowa; St. Louis, Mo., and points in St. Louis County, Mo. **NOTE:** Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Des Moines, Iowa.

No. MC 107515 (Sub-No. 589) (Amendment), filed August 29, 1967, published in *FEDERAL REGISTER* issue of September 21, 1967, amended October 6, 1967, and republished as amended this issue. Applicant: **REFRIGERATED TRANSPORT CO., INC.**, Post Office Box 10799, Station A, Atlanta, Ga. 30310. Applicant's representative: B. L. Gundlach (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy, confectionery products, and prepared foods*, (1) from New Orleans, and Ponchatoula, La., to points in Alabama, Florida, Georgia, Tennessee, Mississippi, North Carolina, South Carolina, Missouri, Oklahoma, Virginia, West Virginia, Maryland, Delaware, Pennsylvania, New Jersey, Arkansas, Texas, New York, Ohio, Kentucky, Indiana, Michigan, Illinois, Wisconsin, Kansas, and the District of Columbia, and (2) from Memphis, Tenn., to points in the foregoing States except Tennessee. **NOTE:** The purpose of this republication is to redescribe the commodity description. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La.

No. MC 107515 (Sub-No. 591) (Amendment), filed September 8, 1967, published in the *FEDERAL REGISTER* issue of September 28, 1967, amended and republished as amended this issue. Applicant: **REFRIGERATED TRANSPORT CO., INC.**, Post Office Box 10799, Station A, Atlanta, Ga. 30310. Applicant's representative: B. L. Bundlach (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packing-houses*, as described in sections A and C of appendix I to the Report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766, from Baltimore, Md., and Washington, D.C., to points in North Carolina, South Carolina, and Georgia. **NOTE:** Applicant states it intends to tack at points in Georgia as authorized in its Sub 1 to points in Florida, Alabama, Mississippi, Louisiana, and Tennessee. Common control may be involved. The purpose of this republication is to add Washington, D.C., as an origin point. If a hearing is deemed necessary, applicant requests it be held at Baltimore, Md., or Washington, D.C.

No. MC 108046 (Sub-No. 5), filed October 5, 1967. Applicant: CURATOLA BROS. TRUCKING, INC., 142-82 Rockaway Boulevard, South Ozone Park, N.Y. 11436. Applicant's representative: Edward M. Alfano, 2 West 45th Street, New York, N.Y. 10036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum ladders*, set up and loose, from Amityville, N.Y., to points in Illinois, Indiana, Michigan, and Ohio, and (2) *returned shipments of aluminum ladders*, on return, under contract with American Ladder Corp. NOTE: Applicant indicates it is presently serving shipper under its contract carrier permit. Purpose of application is to furnish shipper with a complete service. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 109265 (Sub-No. 17) (Correction), filed September 25, 1967, published FEDERAL REGISTER issue of October 5, 1967, and republished as corrected this issue. Applicant: W. L. MEAD, INC., Post Office Box 31, Norwalk, Ohio 44857. Applicant's representative: James Muldoon, 50 West Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Norwalk and Sandusky, Ohio, over U.S. Highway 250, serving all intermediate points. NOTE: Applicant states service to be conducted will be in conjunction with other presently held authorized regular route authority. The purpose of this republication is to correct the spelling of Norwalk, Ohio, inadvertently misspelled in previous publication. If a hearing is deemed necessary, applicant requests it be held at Sandusky, Columbus, or Cleveland, Ohio.

No. MC 109376 (Sub-No. 8), filed October 6, 1967. Applicant: E. R. SKINNER, doing business as E. R. SKINNER TRANSFER, Reedsburg, Wis. 53959. Applicant's representative: Claude J. Jasper, 111 South Fairchild Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cans and can ends*, from Love's Park, Ill. (a suburb of Rockford, Ill.), to Sauk City and Reedsburg, Wis. NOTE: If a hearing is deemed necessary, applicant requests it be held at Madison, Wis.

No. MC 109637 (Sub-No. 330), filed October 5, 1967. Applicant: SOUTHERN TANK LINES, INC., 4107 Bells Lane, Louisville, Ky. 40211. Applicant's representative: Harris G. Andrews (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals dry*, in bulk, in tank or hopper vehicles, from Neal, W. Va., to points in Alabama, Arkansas, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Massachusetts, Minnesota, Mississippi, Missouri, Nebraska, New Hamp-

shire, New Jersey, New York, North Carolina, North Dakota, Ohio (except points in Ashtabula, Cuyahoga, Lake, Summit, Muskingum, Licking, Franklin, and Wayne Counties), Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin. NOTE: Applicant states that it would tack with any appropriate authorities now held. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Washington, D.C.

No. MC 110525 (Sub-No. 845), filed October 9, 1967. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. 19335. Applicant's representatives: Edwin H. van Deusen (same address as applicant) and Leonard A. Jaskiewicz, Madison Building, 1155 15th Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid sugar and corn syrup blends*, in bulk, in tank vehicles, from Knoxville, Tenn., to London, Ky.; Bristol and Lynchburg, Va. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 112520 (Sub-No. 168), filed October 6, 1967. Applicant: McKENZIE TANK LINES, INC., New Quincy Road, Post Office Box 1200, Tallahassee, Fla. 32302. Applicant's representative: Sol H. Proctor, 1729 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hexamethylene diamine adipate* (nylon salt), in solution, and *hexamethylene diamine solution*, in bulk, in tank vehicles, from the plantsite of Monsanto Co. located at or near Gonzalez, Fla., to Mobile, Ala. NOTE: If a hearing is deemed necessary, applicant requests it be held at Jacksonville or Tallahassee, Fla., or Mobile, Ala.

No. MC 112822 (Sub-No. 80), filed October 9, 1967. Applicant: EARL BRAY, INC., Post Office Box 1191, 1401 North Little Street, Cushing, Okla. 74023. Applicant's representative: Marion F. Jones, 420 Denver Club Building, Denver, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in packages and containers, (1) from points in Kansas to points in Alabama, Arkansas, Georgia, Illinois (on and south of U.S. Highway 24), Louisiana, Mississippi, Missouri (on and south of U.S. Highway 50 and on and east of a line beginning at Jefferson City, Mo., and extending along U.S. Highway 54 to Camdenton, Mo., thence along Missouri Highway 5 to Lebanon, Mo., thence along U.S. Highway 66 to Springfield, Mo., thence along U.S. Highway 65 to the Arkansas-Missouri State line (except the St. Louis commercial zone), and Tennessee, and (2) from the St. Louis, Mo., commercial zone and Madison County, Ill., to points in Arkansas, Kansas, Louisiana, Oklahoma, and Texas. NOTE: Applicant states tacking possibilities in the base certificate

between points in Kansas, Missouri, and Oklahoma and in its Sub 41 between points in Kansas. If a hearing is deemed necessary, applicant requests it be held at Kansas City or St. Louis, Mo.

No. MC 113678 (Sub-No. 289), filed October 10, 1967. Applicant: CURTIS, INC., 770 East 51st Avenue, Denver, Colo. 80216. Applicant's representative: Duane W. Acklie, Post Office Box 2028, Lincoln, Nebr. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals, chemical compounds and cleaning compounds*, other than in bulk, from Utica, Ill., to points in Indiana, Kentucky, Michigan, Ohio, Tennessee, West Virginia, and Wisconsin. NOTE: If a hearing is deemed necessary applicant requests it be held at Washington, D.C.

No. MC 114045 (Sub-No. 295), filed October 10, 1967. Applicant: TRANSCOLD EXPRESS, INC., Post Office Box 5842, Dallas, Tex. 75222. Applicant's representative: R. L. Moore (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and items dealt in by candy and confectionery stores or stands*, from Boston, Mass., to points in Alabama, Florida, Georgia, Illinois, Indiana, Kansas, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, and Wisconsin. NOTE: Applicant indicates tacking possibilities with its existing authority, wherein applicant is authorized to serve points in Indiana, Kansas, New Mexico, Oklahoma, Texas, Missouri (except St. Louis, Mo., and its commercial zone), Arizona, California, Oregon and Washington. However, applicant also states that it does not consider such tacking feasible as it can already handle such traffic from the origin of the instant application to the destination territory that could be served via another gateway. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Boston, Mass.

No. MC 114301 (Sub-No. 50), filed October 11, 1967. Applicant: DELAWARE EXPRESS CO., a corporation, Post Office Box 141, Elkton, Md. 21921. Applicant's representative: Chester A. Zyblut, 1522 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Feed* and (2) *commodities*, the transportation of which is partially exempt under the provisions of section 203(b)(6) of the Interstate Commerce Act if transported in vehicles not used in carrying any other property, when moving in the same vehicles at the same time with feed, from Manheim, Pa., to points in Kent, Cecil, and New Castle Counties, Del., and Kent and Queen Anne Counties, Md. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114301 (Sub-No. 51), filed October 13, 1967. Applicant: DELAWARE EXPRESS CO., a corporation, Post Office Box 141, Elkton, Md. 21921. Applicant's representative: Chester A. Zyblut, 1522 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *common*

carrier, by motor vehicle, over irregular routes, transporting: *Dry dicalcium phosphate* (feed grade), in bulk, from Baltimore, Md., to points in Delaware, Virginia, West Virginia, Massachusetts, New Jersey, Pennsylvania, New York, Connecticut, Ohio, Rhode Island, Vermont, and the District of Columbia. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 115841 (Sub-No. 315), filed October 11, 1967. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 1215 Bankhead Highway West, Post Office Box 2169, Birmingham, Ala. 35201. Applicant's representative: C. E. Wesley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural commodities*, exempt from economic regulation pursuant to section 203(b) (6) of the Interstate Commerce Act, when transported at the same time and in the same vehicle with commodities subject to economic regulation (as otherwise authorized), (1) from New Orleans, La., to Nashville, Tenn., (2) from Jacksonville, Fla., to Birmingham, Ala., (3) from Gulfport, Miss., to Lake Charles, La., Houston, Tex., and points in Alabama (except Montgomery), Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Ohio, Tennessee, and Texas, and (4) from Mobile, Ala., to points in Alabama, Tennessee, Arkansas, Kentucky, Ohio, Pennsylvania, New York, Michigan, Indiana, and Illinois. NOTE: If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Mobile, Ala.

No. MC 115841 (Sub-No. 316), filed October 11, 1967. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 1215 Bankhead Highway West, Post Office Box 2169, Birmingham, Ala. 35201. Applicant's representative: C. E. Wesley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy, confectionery products and snack foods* (except in bulk or tank vehicles), from New Orleans and Ponchatoula, La., and Memphis, Tenn., to points in Louisiana, Alabama, Florida, Georgia, Tennessee, Mississippi, North Carolina, South Carolina, Missouri, Oklahoma, Virginia, West Virginia, Delaware, Maryland, District of Columbia, Pennsylvania, New Jersey, Arkansas, Texas, New York, Ohio, Kentucky, Indiana, Michigan, Illinois, Wisconsin, Kansas, Arizona, and California. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Birmingham, Ala.

No. MC 116004 (Sub-No. 20), filed October 5, 1967. Applicant: TEXAS-OKLAHOMA EXPRESS, INC., 2515 Irving Boulevard, Post Office Box 743, Dallas, Tex. 75221. Applicant's representatives: Reagan Sayers and Clayte Binion, Century Life Building, Post Office Box 17007, Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transport-

ing: *Classes A and B explosives*, serving Parsons, Kans., as an off-route point in connection with applicant's regular route classes A and B explosives authority under MC 116004 (Sub-No. 12). NOTE: If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Kansas City, Mo.

No. MC 117344 (Sub-No. 184), filed October 9, 1967. Applicant: THE MAXWELL CO., a corporation, 10380 Evenale Drive, Cincinnati, Ohio 45215. Applicant's representatives: Herbert Baker and James R. Stiverson, 50 West Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, dry, in bulk, in tank or hopper vehicles, from Neal, W. Va., to points in Alabama, Arkansas, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Massachusetts, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio (except points in Ashtabula, Cuyahoga, Lake, Summit, Muskingum, Licking, Franklin, and Wayne Counties), Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Washington, D.C.

No. MC 117574 (Sub-No. 165), filed October 5, 1967. Applicant: DAILY EXPRESS, INC., Post Office Box 39, Carlisle, Pa. 17013. Applicant's representative: G. K. Bishop (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural equipment, agricultural machinery, agricultural implements, agricultural equipment, machinery, and implement attachments and parts*, between La Porte, Ind., on the one hand, and, on the other, points in Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, and the District of Columbia. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 117815 (Sub-No. 128), filed October 9, 1967. Applicant: PULLEY FREIGHT LINES, INC., 405 South East 20th Street, Des Moines, Iowa 50317. Applicant's representative: William A. Landau, 1451 East Grand Avenue, Des Moines, Iowa 50306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and commodities distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from the plantsite and storage facilities of I. D. Packing Co., Des Moines, Iowa, to Austin, Minn., and Fremont, Nebr. Restricted: To the transportation of traffic

originating at and destined to the points named above. NOTE: If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa.

No. MC 119226 (Sub-No. 65), filed October 11, 1967. Applicant: LIQUID TRANSPORT CORP., 3901 Madison Avenue, Indianapolis, Ind. 46227. Applicant's representative: Robert W. Loser, 409 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acetic acid*, in bulk, in tank vehicles, from Elkhart, Ind., to Toledo, Ohio. NOTE: If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Chicago, Ill.

No. MC 119702 (Sub-No. 27), filed October 3, 1967. Applicant: STABLY CARTAGE CO., a corporation, Post Office Box 381, Edwardsville, Ill. 62025. Applicant's representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, Ill. 62707. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from Forsyth, Ill., to points in Allamakee, Clayton, Dubuque, Jackson, Clinton, Scott, Muscatine, Louisa, Des Moines, Lee, and Linn Counties, Iowa; St. Louis, Mo.; and points in St. Louis County, Mo. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 119767 (Sub-No. 203), filed October 2, 1967. Applicant: BEAVER TRANSPORT CO., a corporation, 100 South Calumet Street, Post Office Box 339, Burlington, Wis. 53105. Applicant's representatives: Allan B. Torhorst and Fred H. Figge (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared food products, dairy products, and by-products, and materials, supplies, and equipment, used or useful in the preparation, packing, and sale of these commodities; canned and preserved foodstuffs, and frozen foods*, between points in Illinois and Indiana, on the one hand, and, on the other, St. Paul, South St. Paul, Newport, and Minneapolis, Minn. NOTE: The purpose of this application is to eliminate the gateway into St. Paul, South St. Paul, Newport, and Minneapolis, Minn. If a hearing is deemed necessary, applicant requests it be held at Madison or Milwaukee, Wis.

No. MC 123048 (Sub-No. 105), filed October 9, 1967. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 1919 Hamilton Avenue, Racine, Wis. 53403. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural equipment, farm machinery, and parts thereof* (except such equipment, machinery, and parts which because of size or weight require the use of special equipment), from Dubuque, Iowa, to points in Alabama, Arkansas, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Mississippi, Missouri, North Caro-

lina, North Dakota, Ohio, Oregon, South Carolina, South Dakota, Tennessee, Utah, and Wisconsin. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Madison, Wis., Chicago, Ill., or Des Moines, Iowa.

No. MC 123487 (Sub-No. 5), filed October 5, 1967. Applicant: HENRY HAMEL AND NORMAND E. HAMEL, a partnership, doing business as HAMEL MOTOR TRANSP. CO., R.F.D. No. 1, River Road, Allentown, N.H. Applicant's representative: Guy A. Swenson, Jr., 9 Capitol Street, Concord, N.H. 03301. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rough granite*, between Vinalhaven, Maine, on the one hand, and, on the other, Concord, N.H., under contract with The John Swenson Granite Co., Inc. **NOTE:** Applicant states that it could tack with its present authority in MC 123487, whereas it is authorized to operate between Concord, N.H., and Ogunquit and North Berwick, Maine. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Concord, N.H.

No. MC 124692 (Sub-No. 41) (Amendment), filed September 20, 1967, published in the FEDERAL REGISTER issue of October 5, 1967, amended October 12, 1967, and republished this issue. Applicant: SAMMONS TRUCKING, a corporation, Post Office Box 933, Missoula, Mont. 59801. Applicant's representative: Gene P. Johnson, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicles, over irregular routes, transporting: *Building materials, and gypsum and gypsum products, and materials and accessories* used in connection therewith, from points in Big Horn County, Wyo., to points in Colorado, Idaho, Iowa, Kansas, Minnesota, Montana, Nebraska, North Dakota, Oregon, South Dakota, Washington, Wisconsin, and Wyoming. **NOTE:** The purpose of this republication is to broaden the scope of the application as previously published. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg., Seattle or Spokane, Wash.

No. MC 124802 (Sub-No. 8), filed October 11, 1967. Applicant: CURTIS WOMELDORF, doing business as ACE MOTOR FREIGHT, Post Office Box 331, Summerville, Pa. Applicant's representative: Chester A. Zyblut, 1522 K Street NW., Washington, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay products, and refractory products*, from points in Clarion County, Pa. to points in Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Delaware, Maryland, Virginia, West Virginia, and the District of Columbia. **NOTE:** If a hearing is deemed necessary, applicant does not specify a location.

No. MC 125035 (Sub-No. 14), filed October 12, 1967. Applicant: RAY E. BROWN TRUCKING, INC., 1132 55th Street NE., North Canton, Ohio 44721. Applicant's representative: Fred H. Zolinger, 800 Cleve-Tusco Building, Canton, Ohio 44702. Authority sought to operate as a *contract carrier*, by motor vehicle,

over irregular routes, transporting: *Ice cream, ice confections, and ice water confections*, (1) between Detroit, Mich., and Pittsburgh, Pa., (2) from Detroit, Mich., to points in Ohio, West Virginia, and Pennsylvania, and (3) from Pittsburgh, Pa., to points in Ohio, and West Virginia, under contract with Sealtest Foods, Division of National Dairy Products Corp. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa., Cleveland, Ohio, or Washington, D.C.

No. MC 126291 (Sub-No. 9), filed October 2, 1967. Applicant: QUIRION TRANSPORT, INC., La Guadeloupe, County of Frontenac, Quebec, Canada. Applicant's representative: Frank J. Weiner, Investors Building, 536 Granite Street, Braintree, Mass. 02184. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Sleds, sleighs, children's wagons and parts thereof, children's shovels, wooden benches, chairs, stools, and tables*, from ports of entry on the international boundary line between the United States and Canada to points in Connecticut, Illinois, Indiana, Iowa, Kentucky, Maine, Massachusetts, Michigan, Minnesota, Nebraska, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and Wisconsin, restricted to the transportation of traffic originating at points in Frontenac County, Quebec, Canada, (2) *cedar products*, from ports of entry on the international boundary line between the United States and Canada located at or near Rouses Point, N.Y., Jackman and Coburn Gore, Maine, and Derby Line, Norton Mills and Highgate Springs, Vt., to points in Pennsylvania, restricted to traffic originating at points in Beauce County, Quebec, Canada, and (3) *rough lumber*, from points in Maine, New Hampshire, Vermont, and New York, to ports of entry on the international boundary line between the United States and Canada located at or near Jackman and Coburn Gore, Maine, Derby Line, Norton Mills, and Highgate Springs, Vt. **NOTE:** Applicant presently holds authority sought in part (1) under MC 126291 (Sub-No. 3) to serve the destination areas via the ports of entry of Jackman and Coburn Gore, Maine; Derby Line, Norton Mills, and Highgate Springs, Vt.; and Rouses Point, N.Y. The purpose of part (1) is to provide additional ports of entry. If a hearing is deemed necessary, applicant requests it be held at Augusta or Portland, Maine, or Boston, Mass.

No. MC 126736 (Sub-No. 54), filed October 6, 1967. Applicant: PETROLEUM CARRIER CORPORATION OF FLORIDA, Post Office Box 5809, Jacksonville, Fla. 32207. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, 1301 Gulf Life Drive, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hexamethylene diamine adipate (nylon salt) in solution, and hexamethylene diamine solution*, in bulk, in tank vehicles, from the plantsite of Monsanto

Co., at or near Gonzales, Fla., to Mobile, Ala. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Jacksonville or Tallahassee, Fla.,

No. MC 127281 (Sub-No. 1), filed October 9, 1967. Applicant: PORTA-CAR, INC., 5520 Daywalt Avenue, Baltimore, Md. 21206. Applicant's representative: John W. Hesslan, III, Post Office Box 6892, Towson, Md. 21204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used, second-hand passenger automobiles, station wagons, and pickup trucks* (not exceeding $\frac{3}{4}$ -ton capacity), in truckaway service, between Manheim, Pa., on the one hand, and, on the other, Baltimore, Md. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Baltimore, Md.

No. MC 128256 (Sub-No. 1), filed October 9, 1967. Applicant: O. W. BLOSSER, doing business as BLOSSER TRUCKING, 215 North Main Street, Middlebury, Ind. 46540. Applicant's representative: Alki E. Scopellitis, 511 Fidelity Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wooden mouldings*, from the site of Middlebury Moulding, Inc., near Middlebury, Ind., to points in the United States. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Chicago, Ill.

No. MC 128746 (Sub-No. 4) (Amendment), filed June 6, 1967, published FEDERAL REGISTER issue of June 22, 1967, amended October 11, 1967, and republished as amended, this issue. Applicant: D'AGATA NATIONAL TRUCKING CO., a corporation, 3240 South 61st Street, Philadelphia, Pa. 19153. Applicant's representative: G. Donald Bullock, Box 103, Wyncote, Pa. 19095. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* in containers, from Willimansett, Mass., to Philadelphia, Pa. and points in New Jersey. **NOTE:** The purpose of this republication is to change the destination point from New York, N.Y., to Philadelphia, Pa., and points in New Jersey. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa.

No. MC 129048 (Sub-No. 1), filed October 6, 1967. Applicant: M & J REFRIGERATED TRANSPORTATION, INC., 636 South West Street, Indianapolis, Ind. 46225. Applicant's representative: James C. Clark, 714 Indiana Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Frozen foods*, in mechanically refrigerated vehicles, between points in the Chicago, Ill., commercial zone, and points in Indiana. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., Chicago, Ill., or Louisville, Ind.

No. MC 129204 (Sub-No. 2), filed October 9, 1967. Applicant: CROSBY LUMBER COMPANY, INC., Eager-Springerville Highway, Post Office Box 670, Springerville, Ariz. 85938. Applicant's representative: A. Michael Bernstein,

1327 Guaranty Bank Building, Phoenix, Ariz. 85012. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from points in Apache, Navajo, Coconino, and Gila Counties, Ariz., to points in New Mexico, Texas, Oklahoma, and points in San Diego, Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, Imperial, and Kern Counties, Calif. NOTE: If a hearing is deemed necessary, applicant requests it be held at Phoenix, Ariz.

No. MC 129249 (Sub-No. 2), filed October 12, 1967. Applicant: CONWAY GUITTEAU, doing business as CONWAY GUITTEAU LUMBER CO., Post Office Box 818, Amite, La. 70422. Applicant's representative: Burrell J. Carter, Post Office Box 97, Greensburg, La. 70441. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Pine Grove, La., to Baton Rouge, La., under contract with Edward Hines Lumber Co., of Louisiana. NOTE: Applicant states the commodity specified above will have a subsequent movement by barge to points outside of Louisiana. If a hearing is deemed necessary, applicant requests it be held at Amite, Hammond, Baton Rouge, or New Orleans, La.

No. MC 129365, filed August 28, 1967. Applicant: E. J. DICKIE TRUCKING COMPANY, a corporation, Bagdad, Ariz. Applicant's representative: Richard Minne, 609 Luhrs Building, Phoenix, Ariz. 85003. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities* (except those of unusual value, classes A and B explosives, and household goods as defined by the Commission), between points in that part of Arizona within a 25-mile radius of Hillside, Ariz., including Hillside; and (2) *ores, concentrates, mining and milling supplies*, between points in that part of Arizona within a 25-mile radius of Hillside, Ariz., on the one hand, and, on the other, points in Arizona. NOTE: Applicant states it presently holds contract carrier authority under MC 77340 and Sub 1 thereunder, and the authority sought in (1) above for common carriage is duplicated in said contract carrier authority. Applicant further states that if the authority in the instant application is granted, the said contract carrier authority would be canceled. Other dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Phoenix, Ariz.

No. MC 129437, filed September 29, 1967. Applicant: MONUMENTAL SECURITY STORAGE COMPANY, a corporation, 3006 Druid Park Drive, Baltimore, Md. 21215. Applicant's representative: H. Charles Ephraim, 1411 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in the District of Columbia, Delaware, those in Maryland and Virginia on the Delmarva Peninsula, and points in Baltimore City and Baltimore, Harford, Caroline, Frederick, Howard, Montgomery, Prince Georges, Charles,

Calvert, and Anne Arundel Counties, Md.; Arlington, Fairfax, Prince William, and Loudoun Counties, Va.; and Chester, Lancaster, York, and Adams Counties, Pa.; restricted to shipments: (1) Moving on the through bill of lading of a forwarder operating under section 402(b) (2) of the Act; (2) having a prior or subsequent line-haul movement by rail, motor, water, or air carrier; and, (3) having a prior or subsequent movement beyond said points in containers. NOTE: Common control may be involved. Applicant holds contract carrier authority under Docket No. MC 127980 (Sub-No. 1), therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 129439, filed October 9, 1967. Applicant: BRITO SHIPPING CORP., 19 Tomkins Avenue, Brooklyn, N.Y. 11206. Applicant's representative: Max Silberberg, 269-08 79th Avenue, New Hyde Park, Queens, N.Y. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Household goods and furnishings, and personal effects* between points within the New York, N.Y., commercial zone. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 129441, filed October 5, 1967. Applicant: EL FARO SHIPPING CO., INC., 100 Scholes Street, Brooklyn 6, New York, N.Y. Applicant's representative: Harold Mondsheln, 152 Manhattan Avenue, Brooklyn 6, New York, N.Y. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods, furnishings, and personal effects*, between points within the exempt New York City commercial zone wherein exempt operations may be conducted. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 129443, filed October 9, 1967. Applicant: CARIBE SHIPPING, INC., 1134 Broadway, Brooklyn, N.Y. 11221. Applicant's representative: Max Silberberg, 269-08 79th Avenue, New Hyde Park, N.Y. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods and furnishings, and personal effects*, between points within the New York, N.Y., exempt commercial zone wherein operations are exempt from economic regulations. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 129446, filed October 6, 1967. Applicant: ROLAND B. NICHOLSON, Post Office Box 60, Route 4, Fort Pierce, Fla. 33450. Applicant's representative: Bernard C. Pestcoe, 708 City National Bank Building, Miami, Fla. 33130. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Insecticides, fungicides, pesticides, weed killers, fertilizer, diluents and conditioners, emulsifier and wetting agents*, between the plantsite and facilities of W. R. Grace & Co. at or near Fort Pierce, Fla., on the one hand,

and, on the other, Brooklyn, N.Y.; Alliance, Ohio; Strang, Tex.; Memphis, Tenn.; New Orleans, La.; Denver, Colo.; Baltimore, Md.; Philadelphia, Pa.; and points in Georgia, New Jersey, Mississippi, and Florida, under contract with W. R. Grace & Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Miami, Fla., or Washington, D.C.

No. MC 129455, filed October 9, 1967. Applicant: CARRETTA TRUCKING, INC., 70 Canal Street, Jersey City, N.J. 07302. Applicant's representative: Robert B. Pepper, 297 Academy Street, Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Swimming pools including parts thereof, garden sheds and radiator enclosures*, from the plantsite of Quaker City Industries, Carlstadt, N.J., to points in Arkansas, California, Georgia, Illinois, Indiana, Kentucky, Massachusetts, Michigan, Minnesota, Missouri, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Virginia, and Washington, D.C., (2) *redwood lumber*, from Fortuna, Calif., to the plantsite of Quaker City Industries, Carlstadt, N.J., and (3) *materials and supplies* used in the manufacture of swimming pools and garden sheds, from St. Louis, Mo., and Bakerstown, Pa., to the plantsite of Quaker City Industries, Carlstadt, N.J., under contract with Quaker City Industries, Carlstadt, N.J. NOTE: If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., or New York, N.Y.

MOTOR CARRIER OF PASSENGERS

No. MC 128651 (Amendment), filed October 10, 1966, published FEDERAL REGISTER issue of October 27, 1966, amended and republished as amended this issue. Applicant: CONTINENTAL AIR TRANSPORT CO., INC., 300 North Des Plaines Street, Chicago, Ill. 60606. Applicant's representative: Eugene L. Cohn, 1 North La Salle Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, between Milwaukee, Wis., and Chicago O'Hare International Airport, Chicago, Ill., from Milwaukee over Interstate Highway 94 to junction Interstate Highway 294 (also from Milwaukee over U.S. Highway 41 to junction Interstate Highway 94, thence over Interstate Highway 94 to junction Interstate Highway 294), thence over Interstate Highway 294 to junction Kennedy Expressway, thence over Kennedy Expressway to entrance and exit of Chicago O'Hare International Airport, and return over the same routes, serving as intermediate points junction Interstate Highway 94, U.S. Highway 41 and Wisconsin Highway 20, approximately 6 miles west of Racine, Wis., and junction Interstate Highway 94, U.S. Highway 41 and Wisconsin Highway 50, approximately 4 miles west of Kenosha, Wis. NOTE: The purpose of this republication is to change an inter-

mediate point from Wisconsin Highway 43 to Wisconsin Highway 50. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN REQUESTED

No. MC 19227 (Sub-No. 121), filed October 12, 1967. Applicant: LEONARD BROS. TRUCKING CO., INC., 2595 Northwest 20th Street, Miami, Fla. 33152. Applicant's representatives: J. Fred Dewhurst, Post Office Box 602, Biscayne Annex, Miami, Fla. and Armon Leonard (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes; transporting: *Refuse, trash, and waste disposal and handling equipment*, between Sun Valley and Pico Rivera, Calif.; on the one hand, and, on the other, points in Maryland, the District of Columbia, Pennsylvania, Delaware, Rhode Island, New York, New Jersey, Connecticut, Massachusetts, New Hampshire, Vermont, and Maine.

No. MC 124530 (Sub-No. 2), filed October 9, 1967. Applicant: BELLMAN MILTON LEVINE, 123 Washington Street, Biloxi, Miss. 39530. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes; transporting: *Malted beverages and related advertising material*, from New Orleans, La., to Gulfport, Biloxi, Pascagoula, and Moss Point, Miss., under contract with F.E.B. Distributing Co. and Bellande Beverage Co.

MOTOR CARRIER OF PASSENGERS

No. MC 1515 (Sub-No. 118) (Clarification), filed September 18, 1967, published FEDERAL REGISTER issue October 5, 1967, and republished, as clarified this issue. Applicant: GREYHOUND LINES, INC., 1400 West Third Street, Cleveland, Ohio 44113. Applicant's representative: Barrett Elkins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes; transporting: *Passengers and their baggage, express, mail, and newspapers* in the same vehicle with passengers, (1) regular routes—between the junction of U.S. Highway 50 and West Virginia Highway 7 and the junction of U.S. Highway 50 and U.S. Highway 220, from the junction of U.S. Highway 50 and West Virginia Highway 7 near Ridgeville, W. Va., over West Virginia Highway 7 to junction U.S. Highway 220, thence over U.S. Highway 220 to Keyser, W. Va., thence over U.S. Highway 220 to junction U.S. Highway 220 and U.S. Highway 50 just south of New Creek, W. Va., and return over the same route, serving all intermediate points, and (2) irregular routes—in round-trip charter operations, beginning, and ending at points on the routes specified in (1) above, and extending to points in the United States, including Alaska but excluding Hawaii. NOTE: Applicant intends to tack the proposed authority at the junction of U.S. Highway 50 and West Virginia Highway 7 near Ridgeville, W. Va., and junction U.S. Highway 220

and U.S. Highway 50 just south of New Creek, W. Va., with its existing authority. Applicant is authorized to serve various points in 48 contiguous continental United States under MC 1515 and subs thereunder. Further it is also intended that the traffic originating or terminating on the proposed route described in paragraph (1) above will be interlined with other carriers at points where applicant presently interlines traffic with such carriers. NOTE: The purpose of this republication is to clarify No. (2) above.

By the Commission.

[SEAL]

H. NEIL GARSON,
Secretary.

[F.R. Doc. 67-12576; Filed, Oct. 25, 1967;
8:45 a.m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

OCTOBER 23, 1967.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41154—*Newsprint paper from points in Canada to Colorado and Wyoming points*. Filed by Western Trunk Line Committee, agent (No. A-2524), for interested rail carriers. Rates on newsprint paper, in carloads, from Fort Frances, Fort William, Kenora, Fort Arthur, Sioux Lookout, and West Fort William, Ontario, and Pine Falls, Manitoba, Canada, to points in Colorado and Wyoming.

Grounds for relief—Market competition.

Tariffs—Supplement 158 to Western Trunk Line Committee, agent, tariff ICC A-4389, and supplement 6 to Canadian Pacific Railway tariff ICC W. 1095.

FSA No. 41155—*Sulphur from Dumas, Tex., and points in New Mexico*. Filed by Southwestern Freight Bureau, agent (No. B-9022), for interested rail carriers. Rates on crude, unground and unrefined sulphur, in carloads, minimum 100,000 pounds, from Dumas, Tex., Artesia, Carlsbad and Lakewood, N. Mex., to points in official territory.

Grounds for relief—Market competition.

Tariff—Supplement 21 to Southwestern Freight Bureau, agent, tariff ICC 4713.

By the Commission.

[SEAL]

H. NEIL GARSON,
Secretary.

[F.R. Doc. 67-12647; Filed, Oct. 25, 1967;
8:48 a.m.]

[Notice 479]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 23, 1967.

The following are notices of filing of applications for temporary authority un-

der section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protest must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 50493 (Sub-No. 34 TA), filed October 17, 1967. Applicant: P.C.M. TRUCKING, INC., 1063 Main Street, Orefield, Pa. 18069. Applicant's representative: Frank A. Doocey, 527 Hamilton Street, Allentown, Pa. 18101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes; transporting: *Dry fish scrap*, in bulk, in tank vehicles with blower discharge unit; from the plants and warehouses of Point Judith By-Products Co. in Rhode Island; to Shiremanstown, Pa., for 150 days. Supporting shipper: The Quaker Oats Co., Merchandise Mart Plaza, Chicago, Ill. 60654. Send protests to: F. W. Doyle, District Supervisor, 900 U.S. Customhouse, Philadelphia, Pa. 19106.

No. MC 107515 (Sub-No. 593 TA), filed October 17, 1967. Applicant: REFRIGERATED TRANSPORT CO., INC., Post Office Box 10799, Station A, 3901 Jonesboro Road SE, Atlanta, Ga. 30310. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes; transporting: *Dry gum shellac or dry bleached shellac* in vehicles equipped with mechanical refrigeration from Savannah, Ga., to Jacksonville, Pensacola, and Tampa, Fla., and Dallas, Tex., for 180 days. Supporting shipper: Gillespie-Rogers-Pyatt Co., Inc., 40 Wall Street, New York, N.Y. 10005. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW, Atlanta, Ga. 30309.

No. MC 114211 (Sub-No. 109 TA), filed October 17, 1967. Applicant: WARREN TRANSPORT, INC., Post Office Box 420, 213 Witry Street, Waterloo, Iowa 50704. Applicant's representative: John E. Wareen (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes; transporting: (1) *Tractors* (not including tractors with vehicle beds, bed frames, or fifth wheels), (2) *agricultural*

machinery and implements, (3) industrial and construction machinery and equipment, (4) equipment designed for use in connection with tractors, (5) trailers designed for the transportation of commodities described above (other than those designed to be drawn by passenger automobiles), (6) attachments for the commodities described above, (7) internal combustion engines, and (8) parts and accessories of the commodities described in (1) through (7) above when moving in mixed loads with such commodities; from Cuyahoga Falls, Ohio to points in the United States (except Washington, Oregon, California, Nevada, Idaho, Utah, Arizona, Montana, Wyoming, Colorado, New Mexico, Hawaii, and Alaska), for 180 days. Supporting shipper: Massey-Ferguson, Inc., 1901 Bell Avenue, Des Moines, Iowa 50315. Send protests to: Chas. C. Biggers, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 332 Federal Building, Fourth and Perry Streets, Davenport, Iowa 52801.

No. MC 115311 (Sub-No. 73 TA), filed October 17, 1967. Applicant: J & M TRANSPORTATION CO., INC., Post Office Box 488, Milledgeville, Ga. 31061. Applicant's representative: Bill R. Davis, Suite 1600, First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Dry corn sugar, in bulk, restricted to traffic having a prior movement by rail, from Atlanta, Ga., to points in Georgia, North Carolina, and Alabama, for 180 days. Supporting shipper: Mr. R. V. Haugen, Assistant Traffic Manager, Corn Products Co., 101 South Wacker Drive, Chicago, Ill. 60606. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 115311 (Sub-No. 74 TA), filed October 17, 1967. Applicant: J & M TRANSPORTATION CO., INC., Post Office Box 488, Milledgeville, Ga. 31061. Applicant's representative: Bill R. Davis, 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Polyvinyl

alcohol, dry, in bulk and in bags, from Charleston, S.C., to Marietta, Ga., and points in North Carolina and South Carolina; and from Marietta, Ga., to points in North Carolina and South Carolina, for 180 days. Supporting shipper: North Chemical Co., Inc., Post Office Box 760, Marietta, Ga. 30061. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 118808 (Sub-No. 8 TA), filed October 17, 1967. Applicant: ABC EXPRESS COMPANY, Fifth Street and Columbia Avenue, Philadelphia, Pa. 19122. Applicant's representative: Anthony C. Vance, 2001 Massachusetts Avenue NW., Washington, D.C. 20036. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Such commodities, as are dealt in by department stores; between Rutherford, N.J., on the one hand, and, on the other, St. Davids, Pa., and points within 35 miles of the latter; between St. Davids, Pa., and points in Maryland, New Jersey, and Delaware within 35 miles of St. Davids, Pa.; restricted to transportation service to be performed under a continuing contract with B. Altman & Co., for 180 days. Supporting shipper: B. Altman & Co., 361 Fifth Avenue, New York, N.Y. Send protests to: Ross A. Davis, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 900 U.S. Customhouse, Second and Chestnut Streets, Philadelphia, Pa. 19106.

No. MC 123048 (Sub-No. 107 TA), filed October 17, 1967. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 1919 Hamilton Avenue, Post Office Box A, Racine, Wis. 53401, Racine, Wis. 53403. Applicant's representative: C. Ernest Carter (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Tractors (except tractors with vehicle beds, bed frames, or fifth wheels), (2) industrial and construction machinery and equipment, (3) equipment designed for use in connection with tractors, (4) trailers designed for the transportation of the com-

modities described above (except trailers designed to be drawn by passenger automobiles), (5) attachments for the commodities described above, (6) internal combustion engines, and (7) parts and accessories of the commodities described (1) through (6) above when moving in mixed loads with such commodities; from the plant and warehouse sites of Massey-Ferguson, Inc., at or near Cuyahoga Falls, Ohio, to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin, for 180 days. Supporting shipper: Massey-Ferguson, Inc., 1901 Bell Avenue, Des Moines, Iowa 50315 (R. E. Kidder, Vice President, Manufacturing). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 126736 (Sub-No. 55 TA), filed October 17, 1967. Applicant: PETROLEUM CARRIER CORPORATION OF FLORIDA, Post Office Box 5809, 369 Margaret Street, Jacksonville, Fla. 32207. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Ammonium lignosulphanate, in bulk, in tank vehicles, from plant or mill site of Rayonier, Inc., Fernandina Beach, Fla., to plant or mill site of Rayonier, Inc., Doctortown, Ga., for 180 days. Supporting shipper: Rayonier, Inc., 161 East 42d Street, New York, N.Y. 10017. Send protests to: District Supervisor, G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, 400 West Bay Street, Jacksonville, Fla. 32202.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 67-12648; Filed, Oct. 25, 1967; 6:48 a.m.]

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